

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. 2018-1246

Petitioner,

vs.

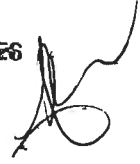
Cary DeGrosa,

Respondent.

FILED

JAN 25 2019

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, Aaron D. Ford, Attorney General of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General, hereby notifies Respondent Cary DeGrosa ("RESPONDENT" or "DEGROSA") 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, DEGROSA held, and currently holds, a community manager certificate from the Division (CAM.0000071) 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.

FACTUAL ALLEGATIONS

2. While investigating discrepancies with annual registration forms for Terra

1 Linda Homeowners Association (the "Association"), the Division discovered that the
2 Association's manager, RESPONDENT DEGROSA, was the sole signor on the vast
3 majority of the Association's checks.

4 3. The Division opened an investigation against DEGROSA.

5 4. DEGROSA informed the Division that he had been the Association's
6 manager since approximately 1984.

7 5. DEGROSA owned a unit within the Association and lived there.

8 6. DEGROSA does not have a management contract with the Association.

9 7. From December 2016 through May of 2018, DEGROSA received
10 approximately \$80,954 from the Association.

11 8. DEGROSA'S invoices to the Association include in addition to a \$1,929 per
12 month management fee in 2018, multiple extra charges, for example: "landscape
13 supervision" (\$700); "supervise pool start-up" (\$600); "supervise sewer clean out
14 clubhouse" (\$100); "supervise roof repair four garages" (\$200), "design, plan & supervise
15 new roofs" (\$500); "supervise trash pick up" (\$100); "supervise asphalt alley repairs"
16 (\$100); "design, write, print and mail July newsletter" (\$200); and new account set up fees
17 of \$295 each.

18 9. To support his charges to the Association, DEGROSA provided the Division
19 with unsigned executive session board meeting minutes for 2016, 2017, and 2018.

20 10. The unsigned executive session minutes state various contract modifications
21 and renewals for the year are approved.

22 11. All checks payable to DEGROSA were only signed by DEGROSA.

23 12. From December 2016 through May of 2018, only checks payable to the
24 Division, the Secretary of State and a reserve study company contained two signatures,
25 the rest were signed only by DEGROSA.

26 13. From December 2016 through May of 2018, DEGROSA sole signed
27 approximately 188 Association checks.

28 14. The Association's 609 Reserve Study Summary form submitted on May 2,

1 2018 states that it was completed by DEGROSA.

2 15. It states a projected year-end balance of \$99,000 and a required balance of
3 \$102,000.

4 16. The reserve study itself shows a fully funded balance of \$381,000 for 2018
5 and that the Association was 22.5% funded.

6 17. The Association did not fund the reserves in 2017 or 2018.

7 **VIOLATIONS OF LAW**

8 18. DEGROSA violated NRS 116A.620 and NAC 116A.325 by performing
9 community management services for the Association without a signed management
10 contract.

11 19. DEGROSA violated NRS 116A.630(1)(a) and NAC 116A.320 by failing to act
12 as a fiduciary in his relationship with the Association.

13 20. DEGROSA violated NRS 116A.630(1)(b) and NAC 116A.320 by failing to
14 exercise ordinary and reasonable care in the performance of his duties.

15 21. DEGROSA violated NRS 116A.630(2)(a) and NAC 116A.320 by failing to
16 comply with state laws.

17 22. DEGROSA violated NRS 116A.640(7) by providing supervision services to
18 the Association without being properly licensed to provide such supervision.

19 23. DEGROSA violated NRS 116A.640(10) by collecting fees and other charges
20 from the Association that is not specified in a management agreement.

21 24. DEGROSA violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(a)(3))
22 by committing unprofessional conduct by violating NRS 116.31153 approximately 188
23 times by being the sole signor on Association checks.

24 25. DEGROSA violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(a)(3))
25 by committing unprofessional conduct by violating NRS 116.31085(2) in 2016, 2017 and
26 2018 by having the Association renew and modify contracts in executive session.

27 26. DEGROSA violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(c)) by
28 committing unprofessional conduct by engaging in deceitful, fraudulent or dishonest

1 conduct by having only checks to the Division, Secretary of State and to the reserve study
2 specialist countersigned by a board member, but sole signing all other Association checks.

3 27. DEGROSA violated NAC 116A.355(1)(a)(1) (through NAC 116A.355(2)(i)) by
4 committing unprofessional conduct by exceeding the authority granted to him by the
5 Association.

6 28. DEGROSA violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(a)) by
7 committing professional incompetence by demonstrating a significant lack of ability,
8 knowledge or fitness to perform a duty or obligation owed to a client.

9 29. DEGROSA violated NAC 116A.355(1)(a)(2) (through NAC 116A.355(3)(b)) by
10 committing professional incompetence by failing to exercise reasonable skill and care with
11 respect to a duty or obligation owed to a client.

12 30. DEGROSA violated NAC 116A.355(1)(a)(1) and (2) (through NAC
13 116A.355(4)(g)) by committing unprofessional conduct or professional incompetence by
14 failing to act in the best interests of the Association.

15 DISCIPLINE AUTHORIZED

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

- 19 1. Revoke or suspend the certificate;
- 20 2. Refuse to renew or reinstate the certificate;
- 21 3. Place the community manager on probation;
- 22 4. Issue a reprimand or censure to the community manager;
- 23 5. Impose a fine of not more than \$5,000 for each violation of a statute or
24 regulation;
- 25 6. Require the community manager to pay restitution;
- 26 7. Require the community manager to pay the costs of the investigation and
27 hearing;
- 28 8. Require the community manager to obtain additional education relating to

1 the management of common-interest communities; and

2 9. Take such other disciplinary action as the Commission deems appropriate.

3 The Commission may order one or any combination of the discipline described
4 above.

5 **NOTICE OF HEARING**

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

10 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for
11 March 12-14, 2019, beginning at approximately 9:00 a.m. each day, or until such time as
12 the Commission concludes its business. The Commission meeting will be held at the
13 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las
14 Vegas, Nevada 89102 with videoconferencing to Division of Insurance, 1818 E. College
15 Parkway, Carson City, Nevada 89706.

16 **STACKED CALENDAR:** Your hearing is one of several hearings that may be
17 scheduled at the same time as part of a regular meeting of the Commission that is
18 expected to take place on March 12-14, 2019. Thus, your hearing may be continued until
19 later in the day or from day to day. It is your responsibility to be present when your case
20 is called. If you are not present when your hearing is called, a default may be entered
21 against you and the Commission may decide the case as if all allegations in the complaint
22 were true. If you need to negotiate a more specific time for your hearing in advance
23 because of coordination with out of state witnesses or the like, please call Samiel
24 Williams, Commission Coordinator, at (702) 486-4606.

25 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is an
26 open meeting under Nevada's open meeting law, and may be attended by the public.
27 After the evidence and arguments, the commission may conduct a closed meeting to
28 discuss your alleged misconduct or professional competence. A verbatim record will be

1 made by a certified court reporter. You are entitled to a copy of the transcript of the open
2 and closed portions of the meeting, although you must pay for the transcription.

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

10 You have the right to request that the Commission issue subpoenas to compel
11 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
12 you may be required to demonstrate the relevance of the witness's testimony and/or
13 evidence. Other important rights and obligations, including your obligation to answer the
14 complaint, you have are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter
15 233B, and NRS Chapters 116 and 116A and NAC 116 and 116A.

16 Note that under NAC 116A.585, not less than five (5) working days before a
17 hearing, RESPONDENT must provide to the Division a copy of all reasonably available
18 documents that are reasonably anticipated to be used to support his or her position, and a
19 list of witnesses RESPONDENT intends to call at the time of the hearing. Failure to
20 provide any document or to list a witness may result in the document or witness being
21 excluded from RESPONDENT'S defense. The purpose of the hearing is to determine if the

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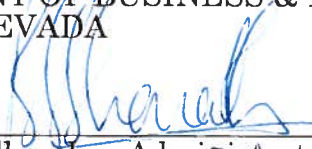
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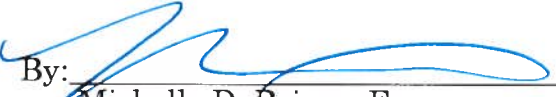
1 RESPONDENT has violated any of the provisions of NRS and NAC Chapters 116 and
2 116A, and to determine what administrative penalty is to be assessed against
3 RESPONDENT, if any, pursuant to NAC 116A.360.

4 DATED: January 25, 2019.

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

8 By: 
9 Sharath Chandra, Administrator
10 3300 W. Sahara Avenue
11 Las Vegas, Nevada 89104
12 (702) 486-4033

11 AARON D. FORD
12 Attorney General

13 By: 
14 Michelle D. Briggs, Esq.
15 Senior Deputy Attorney General
16 555 E. Washington Avenue, Suite 3900
17 Las Vegas, Nevada 89101
18 (702) 486-3420
19 Attorneys for Nevada Real Estate Division