

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,
Petitioner,

vs.

Cindy A. Manning,
Respondent.

Case No. 2020-350

FILED

JUL 28 2021

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

Kelly Valadez

**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 Karissa D. Neff, Senior Deputy Attorney General, hereby notifies Cindy A. Manning ("Manning" and/or "RESPONDENT") 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

During all relevant times mentioned in this complaint, RESPONDENT held a community manager certificate from the Division (CAM.0006917) 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. RESPONDENT'S certificate is currently in "active" status.

FACTUAL ALLEGATIONS

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2 1. RESPONDENT holds a community manager certificate from the Division
3 (CAM. 0006917), said license being in "active" status at the time of filing this complaint.

4 2. At all relevant times alleged herein, RESPONDENT was the community
5 manager of Aventine-Tramonti Homeowners Association ("Association") and was employed
6 by First Service Residential.

7 3. The Division initiated Case No. 2019-1215 ("Prior Case") against the Association
8 when the Division received the Association's annual registration form in October of 2019
9 indicating that the Association's executive board had only two members (instead of the
10 required three members) for approximately eight years.

11 4. In connection with its investigation of the Prior Case, the Division sent
12 three letters to the Association's board members in November of 2019, December of 2019,
13 and February of 2020, requesting a response to its investigation and requesting that certain
14 Association documents be provided to the Division.

15 5. A Division investigator also left a voicemail message with RESPONDENT on
16 January 21, 2020, advising her that the Division had not yet received a formal response
17 in the Prior Case.

18 6. With the exception of board member John Rithaler, neither RESPONDENT nor
19 any other board member responded to the Division's investigation in the Prior Case.

20 7. A Division investigator spoke with one of the Association's board members, Teri
21 Decastro, on May 1, 2020, who stated that she, along with another board member, Ken
22 Botts, provided RESPONDENT with their responses in the Prior Case in January of 2020.

23 8. The Division's investigator received a phone call from RESPONDENT on May 8,
24 2020, requesting an extension through May 20, 2020, to provide the Association documents
25 requested by the Division in the Prior Case.

26 9. RESPONDENT provided the Association documents requested by the Division
27 on May 21, 2020, and attached a note stating that the documents were copies of originals
28 that had been mailed to the Division in December of 2019.

1 10. The Division did not receive the requested documents in December of 2019,
2 contrary to the note attached by RESPONDENT.

3 11. The documents received by the Division did however, reflect the Association had
4 three board members, but as of August of 2020, RESPONDENT failed to file an
5 addendum reflecting the same.

6 12. On April 24, 2020, the Division notified RESPONDENT that it had opened a
7 case against her for failing to cooperate with the Division and for impeding the Division's
8 investigation in the Prior Action, for failing to respond to the Division and for failing to
9 provide the Association's records requested by the Division.

10 13. The Division's April 24th letter also requested RESPONDENT respond to the
11 allegations set forth in the April 24th letter and also that she provide certain Association
12 documents.

13 14. The Division's April 24th letter also stated that if the Division did not receive a
14 response from RESPONDENT or the requested documents, the Division could fine
15 RESPONDENT up to \$1,000.00.

16 15. On June 3, 2020, the Division sent RESPONDENT a letter notifying her that
17 although it received a response in the Prior Action against the Association, RESPONDENT
18 had failed to respond to the Division in this action against her.

19 16. After not receiving a response, on July 6, 2020, the Division again sent
20 RESPONDENT a letter requesting a response to the Division's investigation and certain
21 documents.

22 17. After still receiving no response from RESPONDENT, on August 25, 2020, the
23 Division sent RESPONDENT a notice of violation and imposition of an administrative fine,
24 fining RESPONDENT \$500.00 ("Fine") for violating NRS 116A.630 (failing to cooperate
25 with the Division) and NRS 116A.640 (impeding or interfering with the Division's
26 investigation).

27 18. On October 8, 2020, the Division sent RESPONDENT a letter stating that it
28 had not yet received payment of the Fine and that if payment was not received, it would

1 file a complaint against her for disciplinary action before the Commission.

2 19. To date, RESPONDENT has failed to pay the Fine or communicate with the
3 Division whatsoever regarding it.

4 20. Further, all certified mailings to RESPONDENT'S home address were returned,
5 stating that she was not at this address, indicating that she had failed to inform the
6 Division of her address change.

7 21. On February 18, 2021, the Division properly notified RESPONDENT it
8 intended to file a complaint against her for disciplinary action before the Commission.

9 **VIOLATIONS OF LAW**

10 22. RESPONDENT violated NAC 116A.345(2)(b) and NRS 116A.640(2)(b) by
11 impeding or otherwise interfering with an investigation of the Division by supplying false
12 information to an investigator by representing she had mailed the requested documents
13 in the Prior Case in December of 2019 when she had not.

14 23. RESPONDENT violated NAC 116A.355(1)(a)(1) pursuant to NAC
15 116A.355(2)(c) by engaging in unprofessional conduct by being dishonest, by knowingly
16 communicating to the Division that the requested documents in the Prior Case had been
17 mailed to the Division in December of 2019 when she knew they had not been.

18 24. RESPONDENT violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) on two
19 occasions by impeding or otherwise interfering with an investigation of the Division by
20 failing to timely comply with a request of the Division to provide documents in the Prior
21 Case and in the present action.

22 25. RESPONDENT violated NRS 116A.630(1)(b) by failing to exercise ordinary and
23 reasonable care in the performance of her duties by failing to timely file an addendum
24 reflecting that the Association had three board members.

25 26. RESPONDENT violated the Administrator's order to pay the Fine issued
26 pursuant to NAC 116A.350(4)(b)(1).

27 27. RESPONDENT violated NAC 116A.340 by failing to give written notice to the
28 Division of an address change within 10 business days.

1 **DISCIPLINE AUTHORIZED**

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

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

17 The Commission may order one or any combination of the discipline described
18 above.

19 **NOTICE OF HEARING**

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

24 **THE HEARING WILL TAKE PLACE** at the Commission meeting(s) scheduled
25 for August 31 – September 2, 2021, beginning at approximately 9:00 a.m. each day, or
26 until such time as the Commission concludes its business. The Commission meeting will
27 be held at the Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, 4th
28 Floor, Las Vegas, Nevada 89102 with videoconferencing to Division of Insurance, 1818 E.

1 College Parkway, Carson City, Nevada 89706.

2 **STACKED CALENDAR:** Your hearing is one of several hearings that may
3 be scheduled at the same time as part of a regular meeting of the Commission
4 that is expected to take place on August 31 – September 2, 2021. Thus, your
5 hearing may be continued until later in the day or from day to day. It is your
6 responsibility to be present when your case is called. If you are not present
7 when your hearing is called, a default may be entered against you and the
8 Commission may decide the case as if all allegations in the complaint were true.
9 If you need to negotiate a more specific time for your hearing in advance, please
10 call Kelly Valadez, Commission Coordinator, at (702) 486-4606.

11 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is
12 an open meeting under Nevada's open meeting law and may be attended by the public.
13 After the evidence and arguments, the commission may conduct a closed meeting to
14 discuss your alleged misconduct or professional competence. You are entitled to a copy of
15 the transcript of the open and closed portions of the meeting, although you must pay for
16 the transcription.

17 As a **RESPONDENT**, you are specifically informed that you have the right to
18 appear and be heard in your defense, either personally or through your counsel of choice.
19 At the hearing, the Division has the burden of proving the allegations in the complaint
20 and will call witnesses and present evidence against you. You have the right to respond
21 and to present relevant evidence and argument on all issues involved. You have the right
22 to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses
23 on any matter relevant to the issues involved.

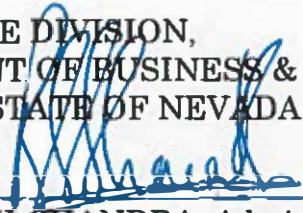
24 You have the right to request that the Commission issue subpoenas to compel
25 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
26 you may be required to demonstrate the relevance of the witness's testimony and/or
27 evidence. Other important rights and obligations,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

1 233B, and NRS Chapters 116 and 116A and NAC 116 and 116A.

2 Note that under NAC 116A.585, not less than five (5) working days before a
3 hearing, RESPONDENT must provide to the Division a copy of all reasonably available
4 documents that are reasonably anticipated to be used to support his or her position, and
5 a list of witnesses RESPONDENT intends to call at the time of the hearing. Failure to
6 provide any document or to list a witness may result in the document or witness being
7 excluded from RESPONDENT'S defense. The purpose of the hearing is to determine if
8 the RESPONDENT has violated any of the provisions of NRS and NAC Chapters 116 and
9 116A, and to determine what administrative penalty is to be assessed against
10 RESPONDENT, if any, pursuant to NAC 116A.360.

11 DATED this 26th day of July, 2021.

12
13 REAL ESTATE DIVISION,
14 DEPARTMENT OF BUSINESS &
INDUSTRY, STATE OF NEVADA

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