

COMMUNITY INSIGHTS

VOLUME XI, ISSUE I

Department of Business and Industry, Real Estate Division

Winter 2014

Nevada Real Estate Division OUR MISSION

The mission of the Nevada Real Estate Division is to safeguard and promote interest in real estate transactions by developing an informed public and a professional real estate industry

Office of the Ombudsman OUR MISSION

To provide a neutral and fair venue to assist homeowners, board members and community managers in handling issues that may arise while living in a common-interest community.

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Education Outreach

The Ombudsman's Office hosts training sessions for Nevada association residents who want to know more about their rights and responsibilities.

To find an upcoming class visit <http://red.state.nv.us/cic.htm> and look for "Upcoming Classes."

All HOA residents welcome. Contact Stacey Spoerl at OMBClasses@red.state.nv.us for registration and information.

Can't make a class?

The slide presentations are posted online, along with training videos and lots of other resources.

New N.R.E.D. Administrator



Joseph (J.D.) Decker has taken office as the Administrator for the Nevada Real Estate Division. Decker comes to NRED with more than 25 years of experience in government, military and private sector leadership and management. He most recently served as deputy commissioner for the Nevada Division of Insurance where he managed compliance and enforcement functions and implemented a strong culture of superior service and process improvement. Prior to that, Decker served as a senior manager in a variety of risk operations management positions for financial services industry

leaders. He is also a former US Army Special Forces officer.

"I'm very happy to lead this agency into the future, working to increase efficiencies and responsiveness, improve workflow processes, and focus the agency on delivering value and service to both Nevada consumers and our industry" Decker said of his new role.

Ombudsman Jackson stated "she is looking forward to new leadership and the opportunity to take the Ombudsman's office to the next level under Administrator Decker."

From the Ombudsman's Desk



As Ombudsman, one of my major functions is to initiate the resolution of conflict for those residing in common-interest communities. A conflict between two parties has the ability to add stress to a person's everyday life.

Several years ago I watched "The Magic of Conflict", by Thomas Crum; I found it to be informative and applicable in how to manage conflict in our everyday lives and within the common-interest community setting. It stressed the importance of the ability to understand the conflict and recognize it before the focus changes from resolving the issue to a battle of opinions or egos.

Crum's movie presented the saying, "in the midst of the storm you have to learn to dance in the rain." Crum illustrates to be calm in the midst of the storm, how to center our minds and bodies, which then allows us to respond and embrace conflict, then focus and work to resolve the conflict, not react to it.

He also instills the lesson that one needs to be flexible regarding opinions and philosophies. Many times when dealing with a situation which involves conflict, two parties will project negative comments to each other which may be taken on a personal level, instead of being about the issue of dispute. Crum offers suggestions on how to divert negative energy being projected in one's direction and understand that conflict actually serves as an opportunity to change an adversarial relationship into a working partnership for the betterment of individuals.

So if the rain comes your way, remember to dance.

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COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

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Scott Sibley, Commissioner
Homeowner Member

Robert Frank, Commissioner
Homeowner Member

Stephen Aichroth, Commissioner
Homeowner Member

James Rizzi, Commissioner
Developer Member

Ken Williams, Commissioner
Community Manager Member

Richard Layton, Commissioner
Certified Public Accountant Member

Commissioners Corner

Governor Sandoval is pleased to announce his appointments to the Commission for Common-Interest Communities and Condominium Hotels.

JIM RIZZI DEVELOPER MEMBER



Veteran developer Jim Rizzi is the Governors appointment to fill the Developer position on the CICCH Commission.

Rizzi is the Director of Community Development for Pardee homes and is currently overseeing the largest project in the history of the homebuilder, the 42,000 acre master-planned project of Coyote Springs. Previous to this he led development efforts for other large builders in Nevada and California.

KEN WILLIAMS COMMUNITY MANAGER MEMBER



I feel that I can bring a great deal of knowledge and experience to the Commission on a vast number of subjects. Not just for the Community Manager's that I represent but for all homeowners located in Common-Interest Communities in Nevada. My belief is that the Commission was put in place in 2003 for a number of reasons but the bottom line is to ensure that the integrity of the industry is upheld while protecting the rights of the homeowners we serve. I look forward to my appointment and the ability to make a difference.

RICHARD LAYTON CERTIFIED PUBLIC ACCOUNTANT MEMBER



In 1970, I completed my Bachelor of Science degree in accounting from Weber State College and four years later moved to Las Vegas and began working for our CPA firm. I am the firms audit and the quality control partner. Twenty years ago I became a member of the Association of Certified Fraud Examiners. I also hold the AICPA CFF designation (Certified in Financial Forensics). I also audit a limited number of HOA's and have been involved in association audits for forty years. I strongly believe in education. Annually, I participate in over 80 hours of professional continuing education, including many hours in homeowner association and fraud investigation training. I also served for many years on committees of the Nevada Society of CPA's.

DID YOU KNOW?

Registration Forms

Regarding the **Registration Filing Addendum** (form 623) can you tell us why we have to remove a member then re-add the same member, when the only update is a position change?" Why does the Division require the duplication of information?

The response to your question is - the Division maintains executive board records according to the term of executive board members. The Division, at all times, must have clear indications of executive board positions, term beginning and ending dates, removal dates, and any position changes.

This form also allows you to replace the current community manager, with a new manager, if the new manager is employed with the management company of record. In the event of termination of service the Division would appreciate notice to whom you will be turning over records.

ADR (Alternative Dispute Resolution) Update

The Division may subsidize proceedings for mediation conducted pursuant to NRS 38.300 to 38.360, inclusive, to the extent that funds are available in the account for Common-Interest Communities and Condominium Hotels in the State General Fund for that purpose.

A party who wishes to have a proceeding for mediation subsidized must: Submit an application to the Division on a form (form 668) prescribed by the Division; file a claim for mediation within 1 year after the date of discovery of the alleged violation. If the applicant is an association be registered and in good standing with; the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels; and The Secretary of State, if the association is required to register with the Secretary of State pursuant to title 7 of NRS.

A unit's owner is eligible to have one subsidized mediation per fiscal year for each unit that he, or she owns. An association is eligible to have one proceeding for mediation subsidized per fiscal year against the same unit's owner for each unit owned.

To read the new regulation see the Division web site at www.red.state.nv.us and see *NAC 116.520 Subsidization of proceedings for mediation*.

The Referee program is now totally subsidized, to the extent funds are available in the account for CICCH in the State General Fund.

New Global Perspective on Training



Ombudsman Sharon Jackson is pleased to announce the appointment of Stacey Spoerl to the position of Program Training Officer for the Common-Interest Communities and Condominium Hotels Program. She will continue to provide educational programs to executive board members, homeowners and community managers.

Stacey Spoerl has over 10 years experience writing and presenting training material, including six weeks in which she traveled to India to train global associates. Stacey has a Bachelor of Science in Business Administration and a Master's degree in Business Administration. She has additional experience in the field of sales and has been a substitute teacher in Nevada as well as in Illinois.

Previously, she has worked for the state of Nevada at the Department of Motor Vehicles and the Nevada Department of Employment Training and Rehabilitation.

"I am excited to use my training experience to assist the public in understanding the NRS statues. I know at times the law can be confusing. My goal is to listen to homeowners, executive board members and community managers concerns and develop new training material which will aid in their understanding of their rights and responsibilities while living in Common-Interest Communities."

Disciplinary Actions/ Stipulations

Diane Wild
Case No. CIS 13-09-19—075
February 26, 2014

Matter came before the Commission, February 25, 2014. Diane Wild failed to appear at the hearing and failed to answer the complaint.

Finding of Fact: Commission considers the following factual allegations to be true.

- After the termination of Respondents management contract an audit uncovered checks written to Respondent for \$49,320 for overseeing construction defect repairs and \$1,761.15 for fees associated with the review of records. Neither check was approved by the board.
- Management contract requires board approval for any expenditure exceeding \$500.00.

Conclusion of Law: Respondent violated:

- NRS 116A.630(1)(a) by failing to act as a fiduciary by requesting and taking both checks.
- NRS 116A.630(1)(b) by failing to exercise ordinary and reasonable care by requesting and taking both checks.
- NRS 116A.630(10) by failing to cooperate with the Division.
- NRS 116A.640(2)(a) by impeding or interfering with an investigation.
- NAC 116A.320 and by failing to comply with NRS 16A.320 regarding statutory standards of practice.
- NAC 116A.345(2)(a) for failure to provide requested documents to the Division.
- NAC 116A.345(9) for collecting fees or charges that were not specified in the management agreement.
- NAC 116A.350(1) for failure to provide a response to the Association.
- NAC 116A.355(1)(a)(1) through NAC 116a.355(2)(C) and NAC 116A.355(2)(f) for committing unprofessional conduct by engaging in deceitful, fraudulent or dishonest conduct to the Association and the Division.
- NAC 116A.355(2)(i) for exceeding her authority.
- NAC 116A.355(3)(a) for demonstrating significant lack of ability, knowledge and fitness for overbilling the association for alleged additional management fees.
- NAC 116A.355(1)(a)(2) through NAC 116A.355(3)(b) for failing to provide a breakdown of alleged fees.

Order: Respondent:

- Shall pay a fine of \$19,018.50
- Community manager certificate is revoked.
- Reserve Study Specialist registration is revoked.
- Pay restitution to the Association in the amount of \$51,081.75
- Shall not prepare or be involved in the preparation of any financial statements for common-interest community for 10 years.
- The Division may institute debt collection proceeding for failure to pay.

Actions/Decisions

Acts of the Commission for Common-Interest Communities and Condominium Hotels are not published in this newsletter by the Real Estate Division until after the 30-day period for filing under Judicial Review. If a stay on discipline is issued by the court, the matter is not published until the final outcome of the review.

Allegations/Stipulations

Stipulations occur when both the respondent and the Division have agreed to conditions

Disciplinary Actions/ Stipulations

By the Commission for Common-Interest Communities and Condominium Hotels

Continued from page 4

Diane Wild Case No. CIS 14-07-51-051 February 26, 2014

Matter came before the Commission, February 25, 2014. Diane Wild failed to appear at the hearing and failed to answer the complaint.

Finding of Fact: Commission considers the following factual allegations to be true.

- At a board meeting the Board voted to terminate the management agreement with Respondent and hand delivered the termination the following day.
- Board awarded new management agreement at the same meeting.
- At the board meeting the Respondent submitted a bid for the Association to consider and prepare the agenda for the next scheduled meeting.
- A manager and an employee from the Respondents management company made derogatory comments regarding the new management company to the board president and attempted to have him change his vote, he refused.
- The same day Respondent received the termination notice and unbeknownst to the association's board Respondent ordered coupon book printing and postage.
- Check signed by only one board member.
- Respondent presented check to bank.
- Association, thru their new management company, questioned Respondent about the check and requested reimbursement for the coupon books.
- New management company questioned Respondent and requested reimbursement by Respondents company and requested the coupon invoice.
- Respondents refused to supply the invoice.

Conclusion of Law: Respondent violated:

- NRS 116A.630(1)(a) by profiting from the coupon books. By failing to confirm the purchase of the coupon books with the Association. By failing to act as a fiduciary.
- NRS 116A.630(1)(b) by allowing the order of the coupon books. By failing to comply with the instructions of the Association to have two signatures on the check.
- NRS 116.31153(2)(a) by failing to have two signatures on a check.
- NRS 116A.630(18) by depositing a check when the amount was in dispute.
- NAC 116A.355(a)(1) by committing unprofessional conduct when she knew or should have known, her contract was being terminated. By not informing the Association of the disputed check being deposited. By wilfully profiting from causing the Association to incur an unnecessary expense.
- NRS 116A.620(6) and NAC 116A.325(6) for failing to provide management contracts and amendments for previous years.
- NAC 116.355(4)(k) for failing to supervise a provisional community manager. For failing to supervise an employee.
- NAC 116A.350(1) for failing to respond in writing to the association within 12 days of the Associations letter.

Actions/Decisions

Acts of the Commission for Common-Interest Communities and Condominium Hotels are not published in this newsletter by the Real Estate Division until after the 30-day period for filing under Judicial Review. If a stay on discipline is issued by the court, the matter is not published until the final outcome of the review.

Allegations/Stipulations

Stipulations occur when both the respondent and the Division have agreed to conditions reviewed and accepted by both sides. A stipulation may or may not be an admission of guilt.

Continued on page 6

Disciplinary Actions/ Stipulations

Continued from page 5

Order:

- Respondent shall pay a fine of \$16,836.50.
Respondent's Reserve Study Specialist registration is revoked.
- Respondent shall pay restitution to the board in the amount of \$1,453.26.
- The Division may institute debt collection proceeding for failure to pay.

Dev Inder Pappas
Case No. 2013-2030; 2295; 2294; 2195; 2911
March 3, 2014

Matter came before the Commission, February 25, 2014. Dev Inder Pappas failed to appear at the hearing. The Commission, having considered the evidence, enters the following:

Findings of Fact:

- Respondent submitted to the Division 4 annual registration filings in the months of June 2013 thru August 2013.
- Respondent was notified in September 2013 that her community manager certificate had expired.
- September 2013 Division issued a Cease and Desist order to Respondent.
- Management Company responded to the Order stating that the Respondent is no longer employed at the company.

Conclusion of Law: Respondent violated:

- NAC 116A.140(4) by engaging in the management of common-interest communities after failing to renew her certificate.
- NRS 116A.400(1) by acting as a community manager without a certificate.

Order:

- Respondent's community manager certificate is revoked.
- Respondent shall pay a fine of \$12,078.00
- Fine shall be paid within 60 days of this order.

Maria Limon
Case No. CIS 2014-2009
July 11, 2014

Matter came before the Commission, July 9, 2014. Maris Limon failed to appear at the hearing. The Respondent in a letter by counsel stated she would not contest the suspension or revocation of her certificate, and being fully advised, she enters into the following Findings of fact, Conclusions of Law, and Order.

Findings of Fact:

- Respondent signed a plea memorandum regarding criminal charges. Respondent pled guilty to Conspiracy to Commit Wire Fraud.
- Some acts were committed by others, but Respondent acknowledged she knew of the unlawful purpose.
- Respondent participated in a scheme to control various Homeowners' Association Board of Directors so boards would award construction defect contracts to a law firm and a construction company designated by Respondent the co-conspirators.

Continued on page 7

Continued from page 6

Conclusion of Law: Respondent violated:

- NAC 116.310 for failing to disclose her expectation to receive compensation.
- NAC 116.300 by accepting remuneration which created a conflict of interest.
- NAC 116.360 (1)(a)(1) for committing acts of unprofessional conduct by engaging in deceitful and fraudulent conduct, and by failing to comply with NRS 116 by failing to disclose.
- NAC 116.360(1)(a)(2) for professional incompetence to preform duties and obligations owed to the client. For failure to protect the public against fraud, misrepresentation, and unethical practices.
- NAC 116.360(1)(a)(3) by engaging in negligent and grossly negligent conduct.
- NAC 116.360(1)(a)(4) by committing a felony.
- NRS116A.900 by acting as a community manager without a certificate.

Order:

- Respondent's community manager certificate is revoked.
- Respondent shall pay a fine of \$41,573.73.

TO READ THESE OR OTHER CASES AND ORDERS

PLEASE GO TO:

WWW.RED.STATE.NV.US

click CICCH/HOA, then CICCH COMMISSION INFO, then COMMISSION ORDERS.

Electronic Delivery
of
Community Insights
starting 2015

Effective January 2015, the Community Insights newsletter will launch electronic delivery. To ensure receipt of future copies the CI newsletter, please register at **Commnityinsights@listserv.state.nv.us** and follow the directions below.

- Select Listserv 16.0 Community Insights @Listserv
- Under "options" click "subscribe"
- On the left side of the subscription page select "Community Insights"
- You will be prompted to enter your email address and create a password.
- You will then receive an email that will contain a confirmation link.
- Click this link to confirm and complete your e-community insights subscription.

Future issues will no longer be printed, but current and past issues can be viewed online at **www.red.state.nv.us**

Attention CAMs

*Online Renewal Available **

To renew your certificate online, visit www.red.state.nv.us. On the right side of the page under Quick Links, select Online Renewals and follow the instructions. Applicants must use Internet Explorer, have a credit card ready and be no more than 45 days before your certificate expiration date.

Applicants must list the continuing education courses they attended, including CE number and date. You may also scan and attach your certificates to document your completed education for the renewal.

Managers wishing to “upgrade” their certificates, such as change from provisional to regular community manager, must submit an application to the Division.

**Online renew is not available
at this time for
Supervising Community Managers.**



New Year Wishes

**Administrator Decker,
Ombudsman Jackson
and the**

**Entire Staff of the
Ombudsman's Office
Wish Each of You**

a

**Happy, Healthy and Prosperous
New Year.**

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