

1 2. At all relevant times, RESPONDENT was the Supervising Community
2 Association Manager for Sun City Anthem Community Association ("Association") and
3 employed by RMI Management, LLC. ("RMI" or "Managing Agent").

4 3. In or about the summer of 2008 the Association approved the solicitation of bids
5 for the installation of shade structures to the Independent Center courtyard area.

6 4. Pursuant to the management agreement in effect at the time, "the Managing
7 Agent shall obtain the necessary bids per Nevada Revised Statutes and shall submit projects
8 funded from capital appropriations or the appropriate Reserve Fund to the standing
9 committees and the Board of Directors of the Association for approval. The Managing Agent
10 shall coordinate and supervise the completion of the approved projects."

11 5. The management agreement also states the requirement to hire, pay and
12 negotiate agreements with "independent licensed contractors required for the proper
13 maintenance and operation of the business of the Association."

14 6. Three bids were acquired for the large permanent 20' x 20' x 8' structures from
15 Shade & Steel Structures, LLC, Shade' n Net and Awning, and from Intrepid Iron, Inc.

16 7. The original packet to committees and board do not contain any information
17 regarding the contractor's licenses of any of the bidding companies.

18 8. The installation of the structures by Shade & Steel Structures, LLC was
19 approved by all necessary committees and the Board.

20 9. The shade structure was completed in or about September 2008.

21 10. In December 2008, the shade structure collapsed as a result of a snow storm.

22 11. The Association paid Shade & Steel, LLC an additional approximately \$5,000 to
23 put the shade structures back up.

24 12. Neither Shade & Steel Structures, LLC nor its principle Terence Gilpin has ever
25 been licensed as a contractor in the State of Nevada.

26 13. RESPONDENT worked with the Facilities Manager, Bruno Panek, on the shade
27 structure project.

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1 14. Mr. Panek advised that a contractor's license was not required to install the over
2 \$20,000 shade structure.

3 15. Pursuant to NRS 624, a contractor's license is required in order to bid for or
4 perform the work relating to the construction of the subject shade structures at the
5 Association.

6 16. NRS 624.020 defines a "contractor" as one who will submit a bid to or undertake
7 to "construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any
8 building, highway, road, railroad, excavation or other structure, project, development or
9 improvement, or to do any part thereof, including the erection of scaffolding or other structures
10 or works in connection therewith."

11 17. Terence Gilpin has been charged in Henderson Justice Court, Case number
12 09FH0826Q with willfully, unlawfully, feloniously and knowingly engaging in the business of or
13 acting the capacity of a contractor to construct the subject shade shelter at the Association
14 without first having obtained a contractor's license issued by the Nevada State Contractors'
15 Board. This matter is still pending.

16 18. Terence Gilpin has been previously convicted of Contracting Without a License
17 on four prior occasions between 2002 and August 2007.

18 19. The Nevada State Contractors' Board website offers instant information
19 regarding contractor's licensure. This inquiry can be accomplished by simply typing in the
20 name of the individual or the company name.

21 20. It was the responsibility of the RESPONDENT to ensure the proper licensure of
22 the individuals hired to install the over \$20,000 shade structures.

23 21. It was not reasonable to abrogate her statutory and contractual duty to a
24 facilities manager to assure that the subject capital improvement project was performed
25 pursuant to all laws and regulations.

26 **VIOLATIONS OF LAW**

27 1. RESPONDENT violated NAC 116.360(1)(a)(1) (2007) pursuant to NAC
28 116.360(2)(b) (2007) by committing unprofessional conduct by failing to disclose to a client

1 any material fact or other information that she knows or, in the exercise of reasonable care or
2 diligence, should have known, which concerns or related to the common-interest community
3 and which is of customary or express interest to the client.

4 2. RESPONDENT violated NAC 116.360(1)(a)(2) (2007) pursuant to NAC
5 116.360(3)(b) (2007) by committing professional incompetence by failing to exercise
6 reasonable skill and care with respect to a duty or obligation owed to a client.

7 3. RESPONDENT violated NAC 116.360(1)(a)(1) or (2) (2007) pursuant to NAC
8 116.360(4)(j) by committing unprofessional conduct or professional incompetence by failing to
9 acquire knowledge of all material facts that are reasonably ascertainable and are of customary
10 or express concern to a client and has conveyed that knowledge to the client.

11 **DISCIPLINE AUTHORIZED**

12 Pursuant to the provisions of NAC 116.370 (2007) the Commission has discretion to
13 impose discipline as it deems appropriate, and may take one or more of the following actions:

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

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NOTICE OF HEARING

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

THE HEARING WILL TAKE PLACE on at the Commission meeting scheduled for **December 6-8, 2011, beginning at 9:00 a.m. each day or until such time as the Commission concludes its business.** The Commission meeting will be located at **Grant Sawyer Building, 555 E. Washington Ave., Room 4401, Las Vegas, Nevada 89101 with video conferencing to the Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701, room 2134 on December 6 and 7, and room 2135 on December 8.**

STACKED CALENDAR: Your hearing is one of several hearings that may be scheduled at the same time as part of a regular meeting of the Commission. Thus, your hearing may be continued until later in the day or from day to day. It is your responsibility to be present when your case is called. If you are not present when your hearing is called, a default may be entered against you and the Commission may decide the case as if all allegations in the complaint were true. If you need to negotiate a more specific time for your hearing in advance because of coordination with out of state witnesses or the like, please call Terilyn Thompson, Commission Coordinator, at (702) 486-4606.

YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an open meeting under Nevada's open meeting law, and may be attended by the public. After the evidence and arguments, the commission may conduct a closed meeting to discuss your alleged misconduct or professional competence. A verbatim record will be made by a certified court reporter. You are entitled to a copy of the transcript of the open and closed portions of the meeting, although you must pay for the transcription.

As a RESPONDENT, you are specifically informed that you have the right to appear and be heard in your defense, either personally or through your counsel of choice. At the hearing, the Division has the burden of proving the allegations in the complaint and will call

1 witnesses and present evidence against you. You have the right to respond and to present
2 relevant evidence and argument on all issues involved. You have the right to call and
3 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter
4 relevant to the issues involved.

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

11 Note that under NAC 116A.585, **not less than five (5) working days before a**
12 **hearing**, RESPONDENT, must provide to the Division a copy of all reasonably available
13 documents that are reasonably anticipated to be used to support his or her position, and a list
14 of witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide any
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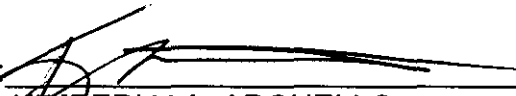
1 document or to list a witness may result in the document or witness being excluded from a
2 Respondent's defense. The purpose of the hearing is to determine if the RESPONDENT has
3 violated the provisions of Chapters 116 and 116A, and to determine what administrative
4 penalty is to be assessed against RESPONDENT, if any, pursuant to NAC 116.370 (2007).

5 DATED this 4th day of November, 2011.

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

9
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