

## **VIOLATIONS OF NRS 116**

By Sara E. Barry – 4-29-19 - UNLV Certified Paralegal and Legal Secretary, licensed Community Association Manager and Nevada Property & Casualty Insurance producer

I think you will find it interesting to see what NRS or NAC regulations have been violated the most in our industry. Many of the individuals violated multiple provisions, but some rose to the top of the list with the most violations.

I have a class that just got approved from the NRED and it is very interesting. It is scheduled to be taught in Reno first in June and Las Vegas will be scheduled sometime soon.

In putting this class together and getting approval for credits, it could have been a 4-hour law class (and should have been), but the Ombudsman's office would only allow me to go back to 2015 vs. 2012, which I had planned on discussing. It ended up a 2-hour Nevada Law Credit class with 2015 – 2019 violations only. Some of the 2012 – 2014 years had the worst violations with Millions of Dollars being stolen, etc.

Below are the most common violations and they start with the most violated and going down from there:

#1 – NAC 116A.355 (1) (a) (1) – Unprofessional Conduct

#2 – NRS 116A.630 (1) (a) – Didn't act as a fiduciary

#3 – NRS 116A.630 (1) (b) - Didn't exercise ordinary & reasonable care in performance of duties.

#4 – NAC 116A.355 (1) (a) (2) - Showed professional incompetence

#5 – NAC 116A.355 (3) (a) – Demonstrated a significant lack of ability, knowledge or fitness to perform a duty or obligation to a client.

#6 – NAC 116A.355 (3) (b) – Failed to exercise reasonable skill and care with respect to a duty or obligation owed to a client.

#7 – NRS 116A.630 (2) (a) – Didn't comply with all federal state or local laws regulations or ordinance.

#8 – NRS 116A.400 (1) - No License - Acted as a community manager without a license.

#9 – NAC 116A.355 (4) (g) – Failed to act in the best interest of the client.

#10 – NRS 116A.640 (2) (a) – Failed to comply with a request of the division to provide documents.

#11 – NAC 116A.345 (2) (a) – Failed to comply with a request by the Division to produce documents.

#12 – NAC 116A.345 (2) (c) – Concealed facts or documents relating to the business of a client.

#13 – NRS 116A.630 (6) (a) – Didn't ensure that all times the financial transactions of a client were accurate and properly documented.

#14 – NRS 116A.630 (10) – Didn't cooperate with the Division in resolving complaints filed with the Division.

#15 – NAC 116A.355 (2) (i) – Exceeded the authority granted to him or her by the client.

#16 – NRS 116A.630 (6) (b) – Were no policies or procedures designed to provide reasonable assurance in the reliability of the financial reporting.

#17 – NRS 116A.630 (15) – Did not maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.

#18 – NAC 116A.355 (2) (f) – Failed to cooperate with the division in an investigation, which including failure to produce documents.

#19 – NRS 116A.640 (2) (C) - Concealing facts or documents relating to the business of a client.

#20 – NRS 116.3103 (Through NAC 116.405) No financial statements and acted outside authority granted in the documents.

There were many more, but with only 1 – 4 people violating them it would take up 3 pages to list them. It took me a while to compile them, as early on, the actual statute was not shown on the violation, just the name, etc.

Hopefully, you will be able to attend one of the classes. I did this to help keep you out of trouble and to make sure you were aware of these violations and the importance of acting as a fiduciary for your board of directors EVEN IF they make all of the decisions. Covering your tail is important as those CYA letters can help you get out of trouble should the board not listen. These letters/messages would definitely help in the event of a lawsuit.

Unfortunately, I was asked to be an expert witness in two lawsuits in Nevada where I spent many hours reading minutes and listening to tapes of meetings to try to not only hear if the defense was warranted, but to try to get the managers kicked out of these law suits. However, there were NO comments in the meeting minutes, on the multiple hours of tapes and NO CYA letters or e-mails sent to the board by the manager advising them not to do the things that were brought up in these law suits.

Can you imagine how boring it was to listen to over 50 hours of board meeting tapes just to try to protect YOU, the manager, only to find nothing in the minutes or tapes. **PLEASE** protect yourself as you never know when you will need it and try to attend the class. This article won't give you all the information you need to know since the attorneys teaching the class will cover what the manager could or should have done to stay out of trouble.

The main reason that I am posting this article is to get you to consider coming to the class hear what these people did to warrant fines and appearances before our Commission for Common Interest Communities and Condo Hotels?