



# Responsibilities of the Community Manager



**Nevada Real Estate Division**  
*Presented By the Training Officer; Office of the Ombudsman for  
Owners in Common-Interest Communities And Condominium Hotels  
Program*





# Disclaimer

- Staff in the Ombudsman's Office is prohibited from providing legal advice. All Materials produced and provided to the public are for informational purposes only and do not serve as legal advice.
- Should confusion arise requiring the interpretation and application of the law to your association's specific circumstances, a legal opinion from a qualified attorney may be necessary.
- Please review the course calendar, training request form, and presentations published on the training webpage to gain an understanding of additional opportunities for education and training. See our training webpage at [http://red.nv.gov/Content/CIC/Program\\_Training/](http://red.nv.gov/Content/CIC/Program_Training/).

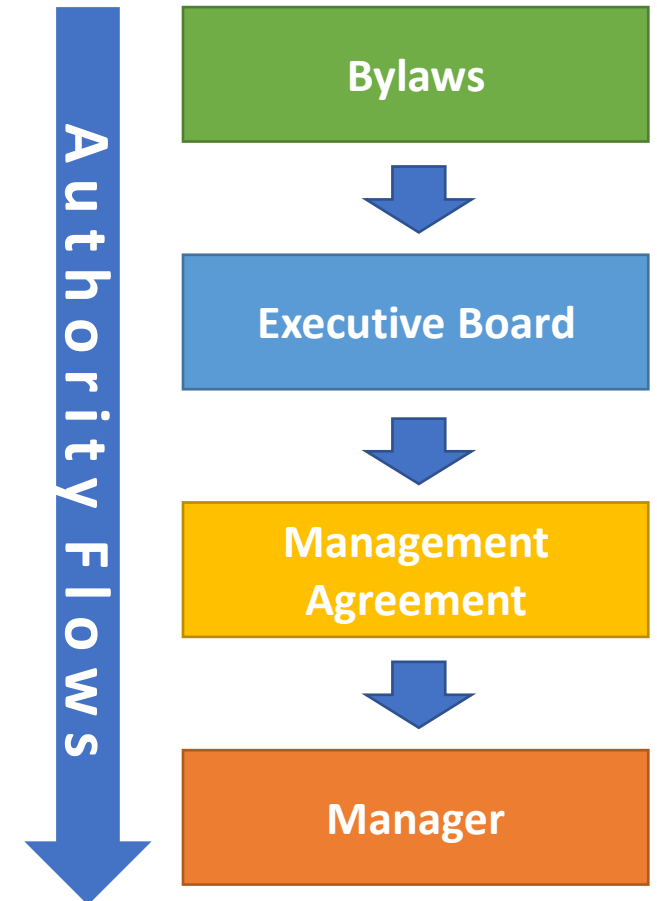
# Agenda



- Association's Authority
- Types of CAM
- Education Requirements
- Unlicensed Employee Actions
- Supervising CAM
- Finding a Cam
- Management Agreement
- Fiduciary Duty
- Prohibited Acts
- Finances
- Board Members & CAM
- Ethics
- Civil Action
- Disciplining the CAM

# Association's Authority: Delegation

- An association's board of directors holds all decision-making authority which is not otherwise allocated to unit owners.
- If the board hires a community manager (CAM) pursuant to their governing documents, the bylaws of the association specify the powers that the board MAY delegate to the manager. NRS 116.3106(1)(d)
- Manager duties are then expressly outlined in the management agreement, which must be entered into and signed by the board and manager or management company prior to commencement of management. NAC 116A.325



# Association's Authority: The Board

NRS 116.3102

- Subject to the provisions of the declaration, the board may:
  - Adopt and amend rules and regulations
  - Adopt and amend budgets
  - Collect assessments for common expenses
  - Invest association's funds
  - Hire and discharge managing agents and independent contractors
  - Institute, defend or intervene in litigation affecting the CIC
  - Make contract and incur liabilities
  - Regulate the use, maintenance, repair, replacement and modification of common elements
  - Impose charges for late payment of assessments
  - Impose reasonable fines for violations of the governing documents



# Association's Authority: Community Manager (CAM)

- To carry out any duties listed in the management agreement. These duties MAY include:
  - Enter **exterior** grounds of a **vacant** unit, after notice and hearing, to cure a potential health and safety violation. NRS 116.310312
  - Act on behalf of the association and attempt to collect a past due obligation from a unit owner. NRS 116.310313
  - Develop written collection policies, approved by the board, and provide timely updates and reports as necessary. NRS 116A.630
  - Post an opinion on an official publication concerning an issue of official interest to the CIC,
    - provide notices to unit owners, and NRS 116.310315
    - conduct elections



# Association's Authority: Community Manager

continued

- To carry out any duties listed in the management agreement. These duties MAY include:
  - Receive petitions from unit owners. NRS 116.31036 & NRS 116.3108
  - Obtain qualified bids for capital improvement projects. NRS 116A.630
  - Make available the books, records and other papers of the association.
  - Deposit or invest association's funds in appropriate financial institutions. NRS 116.311395
  - Withdraw money from the operating account for day-to-day services and utilities. NRS 116.31153



# Knowledge Check



1. Does a CAM hold any decision-making authority within a CIC?
2. Which governing document specifies the board powers that may be delegated to the CAM?
3. What governing document specifies the actual powers delegated to a CAM?
4. True/False: A CAM may withdraw money from the operating account for day-to-day services.



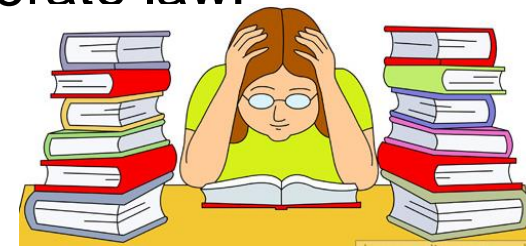
# Types of CAM

Unlicensed Individual	Temporary CAM	Provisional CAM	Licensed CAM	Supervising CAM
Typically support the CAM in an administrative capacity; assistant.	A temporary certificate issued to an experienced CAM, possibly from another state. Expires after 1 year.	Individual who has fulfilled education requirements for certification but lacks required experience requirements.	CAM who holds a certificate or temporary certificate and who has met education and experience requirements.	Licensed CAM who is responsible for supervising one or more provisional or licensed CAMs.

# Education Requirements

NAC 116A.120

- An applicant for a certificate who does not hold a temporary certificate must successfully complete at least **60 hours** of instruction in courses in the management of a CIC that have been approved by the CICCH Commission.
  - **20 hours:**
    - **2 hours:** federal, state and local CIC laws. Includes Americans with Disabilities Act, Fair Housing Act, Fair Housing Amendments Act, and Fair Debt Collections Practices.
    - **18 hours:** NRS 116 & 116A and NAC 116
  - **40 cumulative hours:** legal basics & governing documents; management of facilities & use of experts; accounting; contracts; parliamentary procedures; HR management; inspection and planning; risk management; insurance; government regulations affecting CIC including zoning and planning; NV Fair Housing Law; NRS 118A (Landlord/Tenant); real estate disclosures; constructional defects; alternative dispute resolution (ADR); corporate law; industrial insurance; health and safety; and business ethics



# Unlicensed Employee Activities

Bulletin #17 ('09)

- Unlicensed employees may perform basic administrative work:
  - Agendas,
  - Record minutes,
  - Prepare and send mailings and/or letters,
  - Provide resale packages,
  - Prepare forms, etc.



# Supervising CAM

NAC 116A.165

- A supervising CAM is qualified to act as a supervisor if they:
  - Submit the appropriate application to the Division;
  - Has been actively and recently engaged in the full-time management of a CIC for at least 4 years, 2 of which were in NV; and
  - Is in good standing with an active certificate or permit.



# Supervising CAM continued

NAC 116A.165

- Responsible for:
  - Supervising & teaching one or more managers or provisional managers;
  - Supervise the activities and operation of CICs;
  - Establishing:
    - Policies, rules, procedures and systems necessary for supervision;
    - Safeguards for the filing, storage, handling and maintenance of client documents; and
    - Safeguards for handling client money.



# Finding a CAM

Licensed managers (not companies) can be found via the following link:

<https://red.prod.secure.nv.gov/Lookup/LicenseLookup.aspx>

**ONLINE SERVICES**

**NO LOGIN REQUIRED**

License Lookup

**Search for a License**

Criteria

Note: Hover over any field to display help text.

License Number  -

Company Name/DBA:

First Name:  Last Name:

City:  State:  Zip:

County:

Copyright © 1997-2012 CAVU Corporation All Rights Reserved, version V20120229\_Release.1.21005

# Finding a CAM continued

A Division of the Department of Business & Industry

Note: Hover over any field to display help text.

License Number: CAM

Company Name/DBA:

First Name:

City:

County:

State:

20229\_Release

ation All Rights Reserved, v

A

AMC

ASM

ASMP

ASSN

ATMP

B

BS

BUSB

CAM

CAMP

CE

COOP

EA

EX

IOS

LSP

OWN

PL

PM

POST

PREL

PROV

RE

RSS

S

SE

TS

TSP

Criteria

Note: Hover over any field to display help text.

License Number: CAM . -

Company Name/DBA:

First Name: Last Name:

City: State: Zip:

County: Select a State

Search Clear Form

Current Filters: License Type Prefix CAM

1 2 3 4 5 6 7 8 9 10 ...

	Name	License Number	License Type	License Status	City	State	Zip Code
<a href="#">Detail</a>	1RATE HOA MANAGMENT	9011	CAM MAIN OFFICE	MAIN OFFICE	N LAS VEGAS	NV	89032
<a href="#">Detail</a>	1ST COLUMBIA COMMUNITY ASSOCIATION MGMT	7356	CAM MAIN OFFICE	CLOSED	LAS VEGAS	NV	89102
<a href="#">Detail</a>	3750 RESIDENTIAL MANAGEMENT LLC	9166	CAM MAIN OFFICE	MAIN OFFICE	LAS VEGAS	NV	89158
<a href="#">Detail</a>	5STRMGT, LLC	8191	CAM MAIN OFFICE	MAIN OFFICE	LAS VEGAS	NV	89147

# Management Agreement: Disclosures

NRS 116A.610

- Before entering into a management agreement, a CAM shall disclose, in writing, to the prospective client:
  - Whether the CAM or any member or their organization, expects to receive any direct or indirect compensation, gifts or profits from any person or entity who will perform services for the client and, if so, the identity of the person and the nature of the services rendered.
  - Any affiliation with any person or business who furnished any goods or services to the client.
  - Any monetary relationships with any unit owner, member of the executive board or officer of the association.

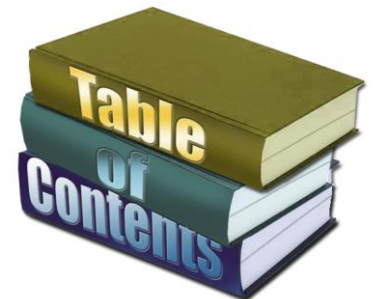




# Management Agreement: Contents

NRS 116A.620

- Any management agreement **MUST**:
  - Be in writing and be signed by all parties. (It's a contract.)
  - Be entered into by the association and the CAM or the CAM's employer.
  - State the terms of the agreement;
  - Include the basic consideration for the services to be provided and the payment schedule;
  - State any spending limits of the CAM;
  - State the identity and the legal status of the contracting parties;
  - State any limitations on the liability of each contracting party;
  - Include a statement of the scope of work of the CAM;



# Management Agreement: Contents continued

NRS 116A.620

- Any management agreement MUST:
  - Include a complete schedule of all fees, costs, expenses and charges to be imposed by the CAM including:
    - Start-up costs;
    - Fees for services (mailing of collection letters, recording of liens, foreclosures etc.)
    - Fees for setting up the accounts of a new member [sale of a unit].
    - Portions of fees that the association and the CAM retain.
  - Include provisions relating to the grounds and procedures for termination of the CAM;



# Management Agreement: Contents continued

NRS 116A.620

- Any management agreement MUST:
  - Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:
    - A requirement that the CAM or their employer shall maintain insurance covering liability for errors or omissions, professional liability, or a surety bond to compensate for losses in an amount of \$1m or more;
  - Include provisions for dispute resolution;
  - Acknowledge that all records and books of the client are the property of the client,
    - except any proprietary information and software belonging to the manager;
  - State the physical location, including the street address, where client records are stored (within 60miles);
  - State the extent, if any, of the authority of the CAM to sign checks on behalf of the client form the operating account.



# Management Agreement: After the Agreement

NRS 116A.620

- After signing an agreement, the CAM shall provide a copy to each member of the board.
- The CAM shall provide all new board members with a copy of the agreement within 30 days of their election/appointment to the board.
- Not later than 10 days after the effective date of the agreement, the CAM shall provide each board member with evidence of the existence of the required insurance, including:
  - Names and addresses of all insurance companies;
  - The total amount of coverage(s); and
  - The amount of any deductible(s).
- The management agree many NOT contain an automatic renewal provision.
  - May contain a month-to-month continuation.



# Management Agreement: Changes

NRS 116A.620(5)

- Any changes to a management agreement **MUST** be initialed by the contracting parties.
- If there are any changes after the execution of a management agreement, those changes **MUST** be in writing and signed by the contracting parties.



# Management Agreement: Termination

NRS 116A.620

- Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client, without penalty, upon 30 days notice following a violation by the CAM of any provisions of NRS or NAC.
- Except as otherwise provided in the agreement, the CAM shall, within 30 days after termination, transfer possession of ALL books, records and other papers of the client to the succeeding CAM, or to the client,
  - **Regardless of any unpaid fees or charges (or other disputes).**



# Knowledge Check



1. True/False: Before entering into a management agreement, a CAM shall verbally disclose any potential conflicts of interest.
2. True/False: A management agreement is simply an agreement and not a formal contract.
3. A management agreement must acknowledge that all records and books of the client are the property of client or CAM?
4. How long after a management agreement becomes effective does the CAM have to provide a board with proof of required insurance?
5. How long after an agreement ends does a CAM have to surrender possession of all association records?

# Fiduciary Duty

NRS 116A.630

- A CAM shall:
  - Act as a fiduciary in any client relationship and exercise ordinary and reasonable care in performance of their duties, at all times.
  - Comply with ALL applicable laws, regulations and ordinances, as well as lawful provisions of the clients governing documents.
  - Keep informed of new developments in the management of a CIC through continuing education.
  - Advise a client to obtain advice from an independent expert relating to matters that are beyond their expertise.
  - Under the direction of a client, uniformly enforce the provisions of the association's governing documents.
  - Comply with the lawful directions of a client.
    - If directions violate law/governing documents/management agreement, the CAM will provide a written recommendation to become compliant.





# Prohibited Acts



NRS 116A.640

- A CAM shall NOT:
  - Perform the duties of a CAM without appropriate certificate.
  - Except as required by law or court order, disclose confidential information relating to a client.
  - Impede or otherwise interfere with an investigation of the Division.
  - Commingle money or property of separate clients.
  - Use money or property of a client for their own personal use.
  - Be a signer on a withdrawal from a reserve account.
  - Provide or attempt to provide any service for which the CAM is not properly licensed (i.e. legal advice).

# Prohibited Acts continued



NRS 116A.640

- A CAM shall NOT:
  - Intentionally apply a payment of an assessment from a unit owner towards any fine, fee or other charge that is due, or refuse to accept the payment because there is an outstanding payment due.
  - Collect any fees or other charges from a client not specified in the management agreement.
  - Accept any compensation, gift or any other item of material value as payment or consideration for a referral unless the client consents, in writing.
  - Refuse to accept a unit owner's payment of any assessment, fine, fee or other charge.

# Finances

NRS 116A.630

- A CAM at all times shall ensure that:
  - The financial transactions of a client are current, accurate and properly documented.
  - There are established policies and procedures designed to provide reasonable assurances in the reliability of the reporting including:
    - The proper maintenance of accounting records;
    - Documentation of the authorization for any purchases, expenditures or disbursements;
    - Verification of the integrity of the data used in business decisions;
    - Facilitation of fraud detection and prevention; and
    - Compliance with all applicable laws and regulations governing financial records.



# Finances continued

NRS 116A.630

- A CAM at all times shall ensure that:
  - Financial statements or audits are prepared by an independent certified public accountant (CPA) when necessary.
  - The financial records of an association are made available to unit owners upon written request.
  - Various funds are maintained in separate accounts.



# Board Members & CAM

NRS 116.31034(10)

- A person may NOT be a candidate for or member of the board or officer of the association if:
  - That person, their spouse or parent or child, by blood, marriage or adoption, performs the duties of a CAM for that association.
- A person may NOT be a candidate for or member of the board or officer of a Master association if:
  - That person, their spouse or parent or child, by blood, marriage or adoption, performs the duties of a CAM for:
    - That master association; or
    - Any sub-association which is subject to the governing document of that master association.



# Knowledge Check



1. True/False: Fiduciary duties only apply to board members.
2. True/False: A CAM may deposit the money of all clients into 1 bank account so long as they maintain separate books to keep track of each client's portion.
3. If a unit owner owes past due fines, can a CAM apply a portion of their normal assessment to that fine?
4. May a CAM be a board member for the same association?

# Ethics

➤ Neither a member of the board nor a CAM:

- Can take or encourage another person to take any retaliatory action against a unit owner because they complained or requested to review records.

NRS 116.31183

- Can receive, directly or indirectly, any compensation or promise thereof, upon an agreement or understanding that his or her action will be influenced thereby (category D felony).

NRS 116.31189

- Shall enter into a contract to provide goods or services to the association for compensation.

NRS 116B.700

- Does not prohibit a CAM from being paid compensation under the terms of a contract for providing management duties.



# Ethics continued



➤ Neither a member of the board nor a CAM:

- Shall accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value which exceeds \$500 per year, not to exceed \$100 per entity.

NAC 116.482 & NRS 116.31185

- Solicit or accept any form of compensation that is based, in whole or in part, on the number or amount of fines imposed for violations.

NRS 116.31185



# Executive Session

NRS 116.3108593)(b)

- An executive board may NOT meet in executive session to **enter** into, **renew**, modify, **terminate** or take any other action regarding a contract.
- An executive board **will** meet in executive session to **discuss** the character, alleged misconduct, professional competence, or physical or mental health of a CAM.



# Civil Actions

NRS 116.4117

- If the CAM fails to comply with any provisions of NRS 116 or the declaration, any person suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.
- Such action may be brought against a CAM:
  - By the association; or
  - By a class of unit's owners constituting at least 10% of the total number of voting members of the association.



# Disciplining Managers: Causes

NAC 116A.355

- A CAM is subject to disciplinary action by the Division if they commit any of the following:
  - Unprofessional conduct. (violates an order of the commission/division/NRS/NAC; fails to disclose important information to the client; lies to a client; lies on an application for the certificate; exceeds their authority granted by NRS/NAC/agreement.)
  - Professional incompetence. (demonstrates a significant lack of ability, knowledge or fitness to perform duties or fails to exercise reasonable skill and care.)
  - Negligence.
  - A felony or any offense involving moral turpitude.

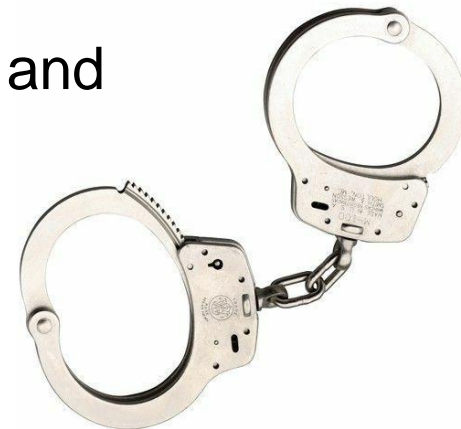


# Disciplining Managers: Consequences

NAC 116A.360

- If the Commission finds that grounds for disciplinary action against a CAM exists, it may take one or more of the following actions:
  - Revoke or suspend the CAM's certificate for at least 1 year;
  - Impose a fine of not more than \$5,000 for each violation;
  - Refuse to renew or reinstate the certificate, especially if a fine has not been paid;
  - Place the CAM on probation;
  - Issue a reprimand or censure for public record;
  - Require the CAM to pay the restitution for the costs of investigation and hearing;
  - Require the CAM to obtain additional education.

NRS 116A.400



# Disciplining Managers: Statute of Limitations

NRS 116.750(2)

- There is NO statute of limitations to file a complaint against a CAM using a Statement of Fact form 514a.



# Knowledge Check



1. Neither a board member nor a CAM shall accept any gifts or other items of value which exceeds \$\_\_\_ per year, or \$\_\_\_ per entity.
2. Can a board hold an executive session to enter/renew/modify/terminate a management agreement?
3. True/False: If a CAM fails to comply with NRS (or the management agreement), they are immune from civil action and must be brought before the Division/Commission.
4. What is the statute of limitations for a unit owner or a board member to submit a complaint to the Division?

# Conclusion!



- Association's Authority
- Types of CAM
- Education Requirements
- Unlicensed Employee Actions
- Supervising CAM
- Finding a Cam
- Management Agreement
- Fiduciary Duty
- Prohibited Acts
- Finances
- Board Members & CAM
- Ethics
- Civil Action
- Disciplining the CAM

# Questions?

- <http://red.nv.gov/> - Main Page
- [CICOmbudsman@red.nv.gov](mailto:CICOmbudsman@red.nv.gov) – Email Questions
- [http://red.nv.gov/Content/CIC/Program\\_Training/](http://red.nv.gov/Content/CIC/Program_Training/)