



**OFFICE OF THE
SECRETARY OF STATE**

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By Barbara Cegavske, Secretary of State

Over the past several days, the Nevada Secretary of State's Commercial Recordings Division has come under scrutiny for Las Vegas Review Journal articles regarding business filing practices in Nevada. In response, there is a need to provide clarification of the role of the Secretary of State's office in these matters as well as remind members of the public and the business community of the fact that those knowingly engaging in fraudulent business filings are guilty of a felony per Nevada law.

The Secretary of State takes the filing of false or forged instruments seriously. Those knowingly offering any false or forged instrument are guilty of a category C felony (NRS 225.083(1)). Civil penalties may also apply (NRS 225.084). In appropriate cases, this office refers complaints to the Attorney General. This has been the historical practice of the Division since the legislature granted limited authority in 2005 and 2007, and is consistent with its statutory function and purpose.

The office's Commercial Recordings Division manages a repository of public records related to business organizations and commercial transactions. The function of the Division is mainly ministerial, similar to that of a county clerk or recorder. The Secretary of State's office does not have the statutory authority to verify the validity of information contained in the filings or the identity of those filing at the time the filing (NRS 225.083(1)).

While the Commercial Recordings Division has limited regulatory authority to remove forged or fraudulent documents from the public record, as prescribed by NRS 225.084 and NAC 225.020-225.130, it has no authority to mediate or adjudicate disputes between the shareholders, owners, officers or managers of a Nevada business entity, which make up a significant number of the complaints. The Division does not determine the respective rights or obligations of the parties to such a dispute, and typically can take no action in these "related party" cases. Such determinations are appropriately left to be resolved through agreement by the parties, or by the courts. Additionally, many complaints involve filings made in error and the record is subsequently corrected.

The Commercial Recordings Division processes more than one million filings and service requests annually by way of both online and paper transactions, and does everything within its statutory authority to maintain the integrity of the records on file. Less than 0.0058% of commercial recording transactions involve subsequent allegations of fraud or forgery.

We continually look for ways we can improve our processes and services and to that end, we are currently replacing our Commercial Recordings systems to update and modernize these processes. We will continue to work with the business community, the Business Law Section of the State Bar Association, the Nevada Registered Agents Association and legislators to improve Nevada law pertaining to businesses and our processes while maintaining Nevada's business-friendly reputation.