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November 3, 2006

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Ovilio Suarez
Investigator Supervisor
State of Florida
Department of Business and Professional Regulation
8685 NW 53rd Terrace
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Miami, FL 33166-1544

RECEIVED
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DBPR-MIAMI/BIS

Re: Case No. 2006046031
Barbara M. Blanco

Dear Mr. Suarez:

This office has been retained for the purpose of responding to your letter of inquiry and the associated uniform complaint. Documents pertaining to this response, including Ms. Blanco's affidavit have been organized in the attached appendix and will be referred to by the letter "A" followed by the pertinent tab number.

The documents provided to date in support of the uniform complaint have been included under tabs 2 through 8. It will be assumed that all documentation provided to the Department pertaining to the uniform complaint has already been provided to this office and there is nothing further to consider in response to this office's previous inquiries for additional documentation. (A-10)

As a threshold issue it is asserted that before this complaint can even be investigated there must be a complaint filed in writing and signed by the complainant. (see Florida Statute 455.225 (1) (a)) No such filing has been disclosed to date. The complainant, Guillermo Tejada, is identified as the "responsible" party at the top of the uniform complaint but there is no written confirmation of this reference. (A-1)

Additionally, none of the documentation provided either independently or in the aggregate allege the "ultimate facts" necessary to establish a legally sufficient complaint under Florida Statute 455.225(1)(a). With respect to the statutory and rule based charges recited in the uniform complaint, there are no ultimate facts which show gross negligence or misconduct nor a "knowing failure to comply with the requirements of the documents by which the association is created." There is no specific association " document " cited.

There are no pertinent written allegations against Ms. Blanco individually with the possible exception of the unsigned rambling memo from Jan Bergemann to Julio Robaina (A-2) which alleges wrongdoing by Barbara Blanco and/or All Florida Management Company. The Bergemann memo references "some

charges outrageous money. (A-2) The Bergemann memo does not, with one exception, specify which condominium associations are involved (the attached list referenced therein was not provided to the respondent) nor does it state the names of the individuals who allegedly "infiltrated" association boards, the specific vendor overcharges or the date or dates when any of these events took place. The only factual assertion is that various directors listed the office address of All Florida Management Company as their address. As stated below, this is a matter of convenience for the protection of the privacy of the various directors and is both a lawful and common practice. It is not per se indicative of an unsavory relationship between a director and the management company. Accordingly, the complaint is asserted to be legally insufficient.

Nevertheless, respondent will attempt to address the various documents provided within the context of the allegations of gross negligence or misconduct under Chapter 468.436(1)(B)(5) Florida Statutes and Rule 61-20.503(4)(B) which prohibits a licensee from "knowingly failing to comply with the requirements of the documents by which the association is created." Each of the documents provided which pertain to a particular condominium association will be addressed in their order of presentation as follows:

WEST GARDENS VILLAGE CONDOMINIUMS AND
JULY 16, 2006 MEMORANDUM OF JAN BERGEMANN

The Bergemann memo alleges that with respect to West Gardens Village Condominium, there was an alleged take-over of the board of directors, that Ms. Blanco "used her own people to do the maintenance and charged outrageous money" and that the property was badly maintained.

First, with respect to the take over or infiltration of this or any other association by Ms. Blanco, none of the directors have been specifically identified nor the actual relationship described. In fact, Ms. Blanco does not have a personal business relationship much less any blood or other family relationship with any of the directors at West Gardens Village Condominiums nor any of the other condominium associations referenced in the documents provided by the Department. (A-11) Parenthetically, even if she did, these directors are still elected by the association membership. With respect to Ms. Blanco and All Florida Management company using their own people, all work performed by All Florida's employees would, under the management contract be included in the management fees and there is no additional profit realized by Ms. Blanco or the management company for work done by the people under contract with All Florida absent extraordinary services such as litigation support or translation services which are not at issue. (A-11) Most of Ms. Blanco's work is administrative in nature and does not involve actual direct maintenance or repair services. (A-11)

The fact that directors may list their address as the property management company's address does not indicate anything other than a convenient way of monitoring association related business, particularly complaints and also preserving a measure of privacy for the individual directors. Indeed one of the responsibilities of the management association is to bring to the attention of the board, unit owner and/or governmental authority complaints. The practice of listing a director's address as the management company's address is common place as indicated by the randomly collected documents of other management companies and associations included in the appendix. (A-12) It is clearly not an indicator of any undue control or influence by Ms. Blanco or All Florida Management Company.

With respect to "outrageous money paid to vendors", all vendor contracts must be voted upon and approved by the association as well as all pertinent invoices. Neither Ms. Blanco nor All Florida

preparing grants at the direction of the association and for the association's officers' execution. Accordingly, there is no factual basis for the assertion that either Ms. Blanco or All Florida Management Company received any compensation beyond that which is provided for under their respective management contracts. (A-11) Nearly all vendors are selected by the association board. (A-11)

With respect to West Garden Village Condominium Association in particular, Ms. Blanco's letter of resignation dated June 8, 2006 clearly articulates the financial basis for the association's deterioration both physically and financially. (A-13) Notwithstanding repeated recommendations by Ms. Blanco for an increase in the assessment in order to meet increasing operating costs, the board, simply refused to do so thereby operating at a deficit. In addition to the lack of revenue, there was also pressure upon the management company to continue to provide funds at the board's request for pet projects or vendors. (A-13) One of Ms. Blanco's last comments exemplifies her frustration wherein she notes that:

"but unfortunately, this time the problem has gone far enough to the point in which the husband of the current president was asked today to leave our office after almost hitting one of our employees with his cane, due to our office's refusal in preparing a check for the new attorney, who was given a check already a week before. All this, despite knowing the association had no sufficient funds and that the only funds available were to pay for the utilities of the community, which otherwise will be cut off" (A-13)

Simply stated, there is no indication of gross acts of misconduct or negligence by Ms. Blanco nor has she "taken over the whole business." On the contrary, she has been faced with an uphill battle against fairly strong willed boards which have stubbornly refused to raise additional revenues but continue to spend as they saw fit and contrary to Ms. Blanco's advice.

LAS VILLAS CONDO ASSOCIATION

The Primary issue presented in Las Villas Condominium Association would appear to be access to condominium records as allowed under Florida Statute 718.11(12)(b). This matter was brought against the association and closed with an information letter on April 18, 2006. (A) The information letter was issued by investigation specialist Irene Kafouros-Aquino. Parenthetically the complaining party, Jesus Martinez made numerous visits to All Florida Management Company offices, ostensibly, requesting access to review a variety of different records to which he was rightfully entitled to review. (A-11) During many of these visits however he attempted to ask All Florida's employee, Maria del Carmen out for lunch or other social activities which she consistently refused and felt uncomfortable about. (A-11) All Florida found it necessary to have another employee handle these matters as a result of Mr. Martinez's persistence. (A-11)

Ultimately, a specific date and time for Mr. Martinez's review of the requested records was arranged in conjunction with the Bureau of Compliance's investigator and a "less interesting" representative of the management company at which time Mr. Martinez failed to appear. (A-6,11)

CAPTIVA LAKES VILLAS CONDOMINIUM ASSOCIATION

The warning letter issued with respect to Captiva Lakes Villas Condominium Association notes that the clean-up of post hurricane debris and related maintenance issues and particularly the non-functioning pool

... (A-11) THE NECESSARY REPAIRS AND MAINTENANCE WERE NOT SUCH THAT COULD BE HANDLED BY ALL Florida's personnel and required independent contractors the approval, appointment and payment of which were delayed by the association and without any fault attributable to Ms. Blanco. (A-11)

With specific regard to the "non-functioning pool" there apparently had been repeated incidences of vandalism and unsavory evening activities associated with the pool which prompted the association to close it down. (A-11) Clearly, this was not Ms. Blanco's decision.

LAKE AND TENNIS VILLAS CONDOMINIUM ASSOCIATION

Neither Barbara Blanco nor All Florida Management Company had any responsibility with respect to this property until their contract was executed in December 2005. Most of the deterioration, problems and associated delay occurred on the watch of the previous management company i.e. Complete and Reliable Corporation and not All Florida. (A-11) This matter concluded in the issuance of a warning letter. (A-7) Surely there is no indication of gross negligence or disregard for the association's bylaws in this case.

VIEW WEST CONDOMINIUM ASSOCIATION

As reflected in the June 7, 2006 correspondence from investigation specialist Sharon H. Coswell, the issue for which a warning letter was issued against the association, but not Ms. Blanco or the management company indicates that work on the roof repairs were suspended due to the association's alleged failure to pay the roofing company, Z Jeff Roofing as required under the terms of its contract. (A-4) This was not a responsibility or failure of responsibility on behalf of Ms. Blanco. The remaining matters dealing with response to access to records were addressed in the form of a "informational resolution" wherein there was a schedule of monitored appointment for the review of records which were accomplished and the matter resolved on May 30, 2006. The record in this matter indicates that itemized documentation for disbursements related to the 2005 hurricane settlement check including supporting documentation for all of the 2005 checks which were made payable to cash and petty cash was in fact accomplished. (A-4)

Parenthetically, a complaint was previously lodged against Ms. Blanco with respect to this matter and closed after she provided pertinent documentation. (A-9)

PASEO REAL CONDOMINIUM ASSOCIATION

A warning letter was issued against the association in this matter based on a variety of different maintenance failures which were apparently corrected. (A-8) As of the date of the warning letter most of the maintenance duties were ostensibly being handled directly by the association and its employee Horatio Cruz who is not an employee of All Florida Management Company. (A-11)


CONDOMINIUM ASSOCIATION, INC.

Lastly, this office has been provided with a copy of the Final Order entered in an arbitration proceeding involving Le Chateau at International Gardens Condominium Association, Inc. and various unit owners voting for a recall. (A-3) There were no findings in this Order which specifically addressed any intentional wrongdoing or gross negligence on the part of Ms. Blanco or All Florida Management Company. (A-3) It should be noted that the 2005 and 2006 elections at Le Chateau at International Gardens Condominium Association, Inc. were investigated by Phyllis Atwell, an investigator for the Bureau of Compliance of the Division of Florida Land Sales, Condominiums and Mobile Homes who found that there was insufficient evidence to support a finding that there were violations of either state statute or administrative rules with respect to these elections. (A-14)

In summation, the documentation provided in support of the uniform complaint is legally insufficient to support a finding of probable cause for or even investigation of the alleged violations of Florida Statute 468.436(1)(B)(5) or Rule 61-20.503(4)(B) F.A.C. Specifically, there is no credible proof of gross misconduct or negligence in the connection of Ms. Blanco's professional duties nor even the implication of a "knowing failure to comply with the requirements of documents by which the association is created." Accordingly, this matter should be dismissed or in the alternative a finding of no probable cause entered.

Pursuant to Section 455.225(10) Florida Statutes, undersigned counsel requests a full and complete copy of the investigator's report and recommendations pertaining to this matter so as to facilitate any additional response as may be needed prior to the submittal of the report and recommendations to the probable cause panel.

Very truly yours,



Howard J. Hochman

enclosure

HJH/ica

7/28/04