

MINUTES OF THE MEETING

REGULATORY COUNCIL OF COMMUNITY ASSOCIATION MANAGERS

Telephone Conference Call

888.670.3525

Participant Code 7335214083#

May 15, 2015

CALL TO ORDER

Chair Warren called the meeting to order at 10:01 a.m.

Members Participating

Dawn Warren, Chair

Pedro Allende

Sharon Cunningham

Angela Phillips, Vice-Chair

Lisa Riddle

Robert Sibley

Others Participating

Robyn Barineau, Executive Director

Elise Rice, Government Analyst

Lawrence Harris, Counsel

David Perry, Office of the General Counsel (OGC)

Joe Helton, OGC

Walt Trierweiler, OGC

Mark Benson

Fred Gray

Approval of the Minutes of the Meeting

February 20, 2015

MOTION: Vice-Chair Phillips made a motion that the Council approve the minutes as submitted.

SECOND: Mr. Sibley seconded the motion and it passed unanimously.

UPDATE ON RULES – LAWRENCE HARRIS

61E14-4.001, F.A.C. - Continuing Education Renewal Requirements

61E14-4.004, F.A.C. - Reactivation Continuing Education

Mr. Harris informed the Council that the rules would be effective on May 18, 2015.

REPORTS

Prosecuting Attorney Report – David Perry/Joe Helton

Mr. Perry informed the Council that there were 56 CAM cases in the OGC. Mr. Perry indicated he would e-mail the members a copy of the report. Mr. Helton informed the Council that Mr. Walt Trierweiler recently became the prosecutor for CAM cases.

Counsel Report – Lawrence Harris

61E14-5.003, F.A.C. – Notice of Non-Compliance

Mr. Harris informed the Council that he had provided a draft of the rule for their review.

61E14-5.003 Notice of Non-Compliance.

In accordance with Section 455.225(3), F.S., when a complaint is received, the Department agency may provide a licensee with a notice of non-compliance for an initial offense of a minor violation. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings. The Council hereby designates the following as “mMinor violations” as used in Section 455.225(3), F.S., for which a notice of non-compliance may be provided: are defined as follows:

(1) Violations of paragraph 61E14-2.001(36)(a), F.A.C.: Withholding possession of any original books, records, accounts, funds, or other property of a community association when requested by the community association to deliver the same to the association upon reasonable notice.

(2) Violations of paragraph 61E14-2.001(36)(b), F.A.C.: Denying or delaying access to association official records to an owner or his or her authorized representative who is entitled to access within the timeframe and under the procedures set out in Sections 718.111(12), 719.104(2), or 720.303(5)(4) F.S. Failing to provide access to association records, for the purpose of inspecting or photocopying the same, to a person entitled to such by the law.

(3) Violations of paragraph 61E14-2.001(3)(d), F.A.C.: Failure to maintain the records for a community association manager or management firm or the official records of any applicable association, as required by Sections 718.111(12), 719.104(2), or 720.303(4), F.S.

Rulemaking Authority 468.4315, 455.225(3) FS. Law Implemented 120.695, 455.225(3) FS. History–New 9-9-13,

Following discussion, the following action was taken.

MOTION: Vice-Chair Phillips made a motion that the Council approve the language as provided and that Rule 61E14-5.003, F.A.C, be opened for development with the proposed language.

SECOND: Ms. Cunningham seconded the motion and it passed unanimously.

MOTION: Vice-Chair Phillips made a motion that the Council determined that a SERC was not required nor was legislative ratification.

SECOND: Ms. Cunningham seconded the motion and it passed unanimously.

61E14-2.001 Standards of Professional Conduct

Mr. Harris provided a draft of the rule as requested. In discussion, the Council asked that Mr. Harris work with Mr. Helton on this rule and present their proposal at the August conference call.

61E14-2.001 Standards of Professional Conduct.

Licensees shall adhere to the following provisions, standards of professional conduct, and such provisions and standards shall be deemed automatically incorporated, as duties of all licensees, into any written or oral agreement for the rendition of community association management services.

(1) Definitions. As used in this rule, the following definitions apply:

(a) "Licensee" means a person licensed pursuant to Sections 468.432(1) and (2), F.S.

(b) "Community Association Management Services" means performing any of the practices requiring specialized knowledge, judgment, and management skill as defined in Section 468.431(2), F.S.

(c) "Funds" as used in this rule includes money and negotiable instruments including checks, notes and securities.

(2) Professional Standards. During the performance of community association management services, a licensee shall do the following:

(a) Comply with the requirements of the governing documents by which a community association is created or operated.

(b) Only deposit or disburse funds received by the community association manager or management firm on behalf of the association for the specific purpose or purposes designated by the board of directors, community association management contract or the governing documents of the association.

(c) Perform all community association management services required by the licensee's contract to professional standards and to the standards established by Section 468.4334(1), F.S.

(d) In the event of a potential conflict of interest, provide full disclosure to the association and obtain authorization or approval.

(e) Respond to a Notice of Violation or any such similar notification from a Federal, State, or local agency which exercises regulatory authority over the association.

(3) Records. During the performance of community association management services pursuant to a contract with a community association, a licensee shall not:

(a) Withhold possession of the association's official records, in violation of Sections 718.111(12), 719.104(2) or 720.303(5), F.S., or original books, records, accounts, funds, or other property of a community association when requested by the association to deliver the same to the association upon reasonable notice. Reasonable notice shall extend no later than 10 business days after termination of any management or employment agreement and receipt of a written request from the association. The

manager may retain those records necessary for up to 20 days to complete an ending financial statement or report. Failure of the association to provide access or retention of accounting records to prepare the statement or report shall relieve the manager of any further responsibility or liability for preparation of the statement or report. The provisions of this rule apply regardless of any contractual or other dispute between the licensee and the association.

(b) Deny or delay access to association official records to an owner or his or her authorized representative who is entitled to access within the timeframe and under the procedures set out in Sections 718.111(12), 719.104(2) or 720.303(5), F.S.

(c) Create false records or alter the official records of an association in violation of Sections 718.111(12), 719.104(2) or 720.303(4), F.S., or of the licensee except in such cases where an alteration is permitted by law (e.g., the correction of minutes per direction given at a meeting at which the minutes are submitted for approval).

(d) Fail to maintain the records for a community association manager or management firm or the official records of any applicable association, as required by Sections 718.111(12), 719.104(2) or 720.303(4), F.S.

Rulemaking Authority 468.4315(2) FS. Law Implemented 468.431(2) 468.4315(2), 468.4334, 468.436 FS. History—New 5-5-88, Amended 2-5-91, Formerly 7D-55.007, 61B-55.007, Amended 1-8-98, 5-31-99, Formerly 61-20.503, Amended 4-21-10, 2-4-15.

2015-2016 Annual Regulatory Plan

Mr. Harris discussed the Plan with the Council.

MOTION: Vice-Chair Phillips made a motion that the Council approve the Annual Regulatory Plan as submitted.

SECOND: Mr. Allende seconded the motion and it passed unanimously.

Executive Director Report – Robyn Barineau Financial Report – December 31, 2014

Ms. Barineau reported that the balance in the Council's operating account was (\$158,417). She stated that they had \$175,000 in their unlicensed activity account.

Future Meeting Dates

August 21, 2015 – Conference Call

November 13, 2015 - Orlando

February 26, 2016 – Conference Call

May 20, 2016 – Conference Call

August 19, 2016 – Conference Call

November 4, 2016 – Fernandina Beach

NEW BUSINESS

There was no new business to come before the Council at this time.

OLD BUSINESS

There was no old business to come before the Council at this time.

ADJOURNMENT

There being no further business to come before the Council, the conference call was adjourned at 11:00 a.m.