

**M.H. Chris Brown**  
**CAM, AMS, CMCA, PCAM**

15871 County Road 675  
Parrish, Florida 34219  
941-776-3263  
cbrown@cscmsi.com

OFFICE OF GENERAL COUNSEL  
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April 6, 2008

Eric Hurst,  
Assistant General Counsel  
State of Florida  
Department of Business and Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750

Re: Case Number 2006-046031 Barbara M. Blanco

Dear Mr. Hurst,

I have examined the Department of Business and Professional Regulation Investigative Report and Exhibits. The alleged violations against Barbara M. Blanco is Florida Statute 468.436(1)(b)5, Committing acts of gross misconduct or gross negligence in connection with the profession. 61-20.503(4)(b), Due Professional Care (A licensee shall not knowingly fail to comply with the requirements of the documents by which the association is created). In my opinion, a review of the report and exhibits do not at this time support any gross misconduct or gross negligence nor a knowing failure to comply with association documents.

The complaint was filed by Guillermo Tejeda of the DBPR but I found no statement or interview with Mr. Tejeda but instead, the very next page was an unsigned email from a Jan Bergemann addressed to State Representative Julio Robaina. Mr. Bergemann did not appear to own a unit in any of the condominium associations listed in the documentation and his involvement in this case was not established by any of the material I reviewed.

The main allegation from the DBPR Investigative Report and the referenced email is that the CAM, Barbara Blanco placed, "her own people on several associations Boards in order to take over the whole operation." The Bergemann email goes on to say that "she infiltrated the board with her own people, definitely not owners in the community."

Mr. Bergemann continued, "We are talking about serious amounts of money disappearing to the detriments of the condo-owners." Through the additional statements made in the exhibits, it is determined that the allegation is that Barbara Blanco would take the same invoice and pay the contractor from several of the associations. I researched through the evidence presented and found that each of the Directors who were on the Board of Directors WERE owners of units in the condominium. Mr. Bergemann simply used the online corporate report which lists the Board Members addresses as the reason and assumption for the allegation "definitely not owners in the community". All Florida Management Company for the privacy and security of Board members has a policy to use its address rather than the actual address of the Board member. The evidence presented by the Department shows that in at least South Florida, this is a regular practice of management companies. Copies of the corporate reports of other associations managed by different management companies clearly showed the address of the management company was used in order to not release the true address of the Board members.

In reviewing the material I found no copies of checks and invoices showing a single payment from multiple associations for the same invoice. I also found no CPA audits, no checks, no invoices, nothing claiming or providing proof of any misappropriation of association funds. There was a suggestion that it was not possible to see the records to acquire this information. This is not supported by the evidence since records reviews did take place and were supervised by the Division of Florida Land Sales, Condominiums and Mobile Homes. On another occasion when a date and time for a records review was established and the Division was present with a management company representative, the requesting parties did not show at all in order to review the records. The information provided me by the DBPR supports the position that neither Barbara Blanco, nor any employees of her company All Florida Management, was a signer on any of the condominiums bank accounts.

There is an allegation that Membership Meeting notices and election notices were not mailed to the association's membership. Affidavits were presented by association members who stated they did not receive proper notice but affidavits were also presented by association members claiming they did receive proper notice. While I do not believe evidence has been sufficiently presented by Barbara Blanco to prove she did send notice on behalf of the association, there is also insufficient evidence to conclude she did not send the notices. Phyllis Atwell of the Division of Florida Land Sales, Condominiums and Mobile Homes, through the Bureau of Compliance, did an extensive review of year 2005 and 2006 Membership Meeting notices and election notices and concluded "there was insufficient evidence to determine that violations of either Statute or Administrative Rules had occurred." Based on the Division's opinion and the evidence and exhibits I have been presented, I agree that that there is insufficient evidence to determine if notice was properly made or not.

I believe that the way Barbara Blanco presents her Membership Meeting Minutes leads to the confusion of whether proper notice has been made. The minutes are identified as "Minutes of Annual Meeting" but a review of the minutes shows that it is actually the actions of an Organizational Meeting of the Board of Directors. This is the reason that the Board members in attendance are listed rather than the number of owners that were present in person or by proxy. This is further supported by the fact that the officer positions were also determined at the meeting. Officer positions are not determined by the Membership but by the Board. I believe a lot of confusion would be eliminated if the Annual Meeting Minutes reflected the actual member count in person and proxy and also stated that a quorum was not achieved. This would clearly explain why the Association went directly into the Organizational Meeting. I would also suggest titling the minutes as Minutes of the Organizational Meeting of the Board of Directors.

The Board of Directors and management may not have followed the association documents as to when to call the Annual Meeting. In one case the Bylaws require the meeting to be in December and the meeting was held in January. In the second case, the Bylaws also called for a December meeting. The meeting was not held in December but in May. I have seen this violation of association documents frequently and Boards have many reasons for not following the date in their association Bylaws. The most frequent is that the developer set a weekday and time at say 10:00 AM which no one can attend due to being at work. While this would be a violation against the two Boards and Barbara Blanco, I do not consider this a serious violation requiring anything beyond a Division Information Letter or at worst a Warning Letter.

In accordance with my review of the Investigative Report and all Exhibits furnished with the Report, it is my opinion that evidence has not been provided to sustain violations of F.S. 468.436(1)(b)5, Committing acts of gross misconduct or gross negligence in connection with the profession against Barbara M. Blanco and further that evidence has not been provided to sustain violations of 61-20.503(4)(b), Due Professional Care .

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M.H. Chris Brown". The signature is fluid and cursive, with a long horizontal line extending to the right.

M.H. Chris Brown, CAM CMCA AMS PCAM