

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
REGULATORY COUNCIL OF COMMUNITY ASSOCIATION MANAGERS**

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2005-012387

LEROY CLARK DUNN,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, ("Petitioner"), files this Administrative Complaint against LEROY CLARK DUNN, ("Respondent"), and alleges:

1. Petitioner is the State agency charged with regulating the practice of community association management pursuant to Section 20.165 and Chapters 455 and 468, Part VIII, Florida Statutes.
2. At all times material hereto, Respondent was licensed in the State of Florida as a Community Association Manager, having been issued license number CAM 26091.
3. Respondent's address of record with Petitioner is 329 Mendoza Street, Punta Gorda, Florida 33983.
4. On January 4, 2005, the Department of Business and Professional Regulation received a complaint from Kim Jakubaitis ("Jakubaitis") alleging Leroy Clark Dunn ("Respondent"), while acting as the community association manager ("CAM") for Section 20 Property Owner's Association, Inc., ("Association"), had committed election fraud and failed to

allow access to Association records upon request, relating to the 2004 election of the Association's Board of Directors.

5. On or about December 29th, 2004, Brian M. Beason, attorney for Jakubaitis, submitted a written request to Respondent for production of documents, including the bylaws of the Association, Articles of Incorporation of the Association, Declaration of Covenants of the Association, documents relating to the election at the annual meeting on December 28, 2004, including all proxies filed with or otherwise delivered to the Association, all written ballots collected by the Association, all documents used or created by the Association to count or certify proxies and all documents indicating the total amount of votes that each of the candidates received. Respondent failed to provide the documents within ten (10) business days, as required.

6. Stephen and Kim Jakubaitis filed an election dispute with the Department of Business and Professional Regulation, Division of Land Sales, Condominiums, and Mobile Homes. The petition alleges that Respondent improperly and in bad faith conducted the 2004 annual election of the Association by: failing to timely hold the annual election in October, 2004; failing to certify proxies provided by Petitioners prior to the noticed election meeting of December 6, 2004, as prescribed by the governing documents and as set forth in the meeting agenda; failing to conduct elections at the noticed election meeting of December 6, 2004, and therefore, postponing the elections; failing to certify or otherwise provide specific reasons for the failure to certify over 600 of the more than 900 proxies submitted on behalf of Petitioners prior to the annual election meeting; failing to specifically identify which proxies were rejected and which were certified by the board; providing different, inconsistent ballots, and no ballots to some members at the election meeting; failing to amend ballots to reflect the resignation of candidate, Robert T. Evans; and, altering and announcing a different election outcome after the

adjournment of the December 28, 2004, election meeting where the election results were initially announced by Respondent. Arbitrator Susan Wilkinson Harnden's opinion dated July 6, 2005, stated that Respondent's postponement of the December 6, 2004, election meeting was improper; based on the evidence it appears that Respondent acted as the nominating committee, rather than fulfilling its obligation as set forth in its governing documents, and purposefully or not, Respondent misled its members prior to the election to believe that Respondent had fulfilled its obligation of appointing a nominating committee, when no such action had been taken by the Respondent; Respondent improperly failed to conduct a significant and vital portion of the election by failing to certify the proxies as required in its governing documents and by "re-announcing", changing and reversing the election results two (2) weeks after the adjournment of the election meeting. Arbitrator Harnden held the election had been conducted in bad faith and voided the election results.

7. Section 468.436(1)(b)(5), Florida Statutes, provides in pertinent part:

Committing acts of gross misconduct or gross negligence in connection with the profession shall constitute grounds for which disciplinary action may be taken.

8. Section 61-20.503(4)(b), Florida Administrative Code, states:

A licensee or registrant shall not knowingly fail to comply with the requirements of the documents by which the association is created or operated so long as such documents comply with the requirements of law.

9. Section 61-20.503(6)(a), Florida Administrative Code, states:

A licensee or registrant shall not withhold 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. Reasonable notice shall extend no later than 20 business days after receipt of a written request from the association.

COUNT I

10. Petitioner re-alleges and incorporates the allegations set forth in paragraph one through thirteen as though fully set forth herein.

11. Based on the foregoing, Respondent violated Section 468.436(1)(b)(5), Florida Statutes, through a violation of Section 61-20.503(6)(b), Florida Statutes, by withholding possession of original books, records, accounts, funds, or other property of a community association after it had been requested by the community association.

COUNT II

12. Petitioner re-alleges and incorporates the allegations set forth in paragraph one through thirteen as though fully set forth herein.

13. Based on the foregoing, Respondent violated Section 468.436(1)(b)(5), Florida Statutes, through a violation of Section 61-20.503(4)(b), Florida Statutes, by knowingly failing to comply with the requirements of the documents by which the association was created or operated.

WHEREFORE, Petitioner respectfully requests the Board to enter an Order imposing one or more of the penalties authorized by Sections 468.436(3) and 455.227(2), Florida Statutes, which includes, but not is not limited to: revocation or suspension of Respondent's license, imposition of an administrative fine not exceeding five thousand dollars (\$5,000.00) for each count or separate offense, issuance of a reprimand, placement of Respondent on probation for a period of time and subject to such conditions as the Board specifies, and/or the restriction of the authorized scope of practice by Respondent.

SIGNED this 18 day of MAY 2006.



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FILED
Department of Business and Professional Regulation
AGENCY CLERK

CLERK Sarah L. Washman
DATE 5-18-2006

JL/jds
Case No. 2005-012387

PC CFT 5-18-06