



THE STATE OF FLORIDA
FINANCIAL SERVICES COMMISSION
OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

BLC CYPRESS VILLAGE, LLC

AS OF

June 30, 2012

FLORIDA COMPANY CODE 88183

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EXECUTIVE SUMMARY

Pursuant to the provisions of Section 651.105, Florida Statutes, an examination was conducted of the books, records, and affairs of BLC Cypress Village, LLC (hereinafter "Cypress Village"). The scope period of the examination was July 10, 2008 through June 30, 2012. The following table represents general findings; however, specific details are found in each section of the report.

TABLE OF TOTAL VIOLATIONS

| Statute or Rule Cite | Description | Total Files (for scope period) | Files Reviewed | Number of Violations |
|--|--|---------------------------------------|-----------------------|-----------------------------|
| Section 651.055(2) Florida Statutes | Cypress Village failed to deposit the resident's funds into an escrow account or obtain authorization from the resident to hold and not deposit the check during the seven-day contract rescission period. | 171 | 17 | 17 |
| Section 651.091(3)(g), Florida Statutes | Cypress Village failed to provide prospective residents or their legal representatives who executed the continuing care contract the location and amount of the reserve funds. | 171 | 62 | 11 |
| Section 651.091(3)(h), Florida Statutes | Cypress Village failed to provide prospective residents or their legal representatives who executed a continuing care contract after July 1, 2010, a required disclosure, a copy of Section 651.071, Florida Statutes. | 171 | 17 | 17 |
| Section 651.105(1), Florida Statutes | Cypress Village failed to provide for examination documents to substantiate quarterly meetings were held as required by Section 651.085(1), Florida Statutes. | 14 | 14 | 4 |

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a routine market conduct examination of BLC Cypress Village, LLC (hereinafter "Cypress Village") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was July 10, 2008 through June 30, 2012.

The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes and Chapter 690-193, Florida Administrative Code Rules. This market conduct examination did not encompass a financial compliance examination.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Cypress Village. This report is a report by exception, and the information within has been limited to identification of exceptions, errors or unusual problems noted during the examination.

COMPANY OPERATIONS

Cypress Village, a for-profit, Delaware Limited Liability Company, was granted a certificate of authority by the Office to offer continuing care contracts on July 10, 2008. Cypress Village is located in Jacksonville, Florida. Cypress Village is one of several Florida Continuing Care Retirement Communities owned and operated by Brookdale Senior Living, Inc. As of June 30, 2012, Cypress Village reported 176 Continuing Care Units; 168 were Independent Living Units and eight were Assisted Living Units. There were also 194 Rental Units reported. In addition, Cypress Village reported 120 Skilled Nursing Units; all of which were categorized as Community Beds. As of December 31, 2011, there were 426 individuals residing at this facility: 184 residents were residing under Continuing Care Agreements; 143 were residing under a Rental Agreement; and 99 were residing as Skilled Nursing Community patients (non-CCRC).

REQUIRED ESCROW DEPOSITS OR WAIVERS

Cypress Village provided a list containing the 171 continuing care contracts executed during the scope period of the examination. A random sample consisting of 62 contracts was selected from the list. Of the 62 contracts in the sample, 17 contracts were executed on or after July 1, 2010. The 17 contracts were tested for compliance with Section 651.055(2), Florida Statutes.

Findings:

For continuing care contracts executed on or after July 1, 2010, Section 651.055(2), Florida Statutes, provides that during the seven-day rescission period, the resident's funds must be held in escrow unless otherwise requested by the resident, pursuant to Section 651.033(3)(c), Florida Statutes. Section 651.033(3)(c), Florida Statutes, further provides that, at the request of an individual resident of a facility, the provider may hold the check for the seven-day period and shall not deposit it during this time period.

REQUIRED ESCROW DEPOSITS OR WAIVERS (Continued)

There were 17 instances where Cypress Village failed to deposit resident funds into an escrow account for the seven-day rescission period of the contract or obtain authorization from the resident to hold and not deposit the check for the seven-day period. Specifically, the funds paid by residents related to the 17 continuing care contracts executed on or after July 1, 2010 were not deposited into an escrow account. Moreover, Cypress Village failed to substantiate that any of the 17 residents requested Cypress Village to hold the funds in lieu of depositing the funds into the escrow account.

Recommendation: The Office recommends Cypress Village take steps to establish escrow procedures in accordance with Section 651.033, Florida Statutes, and to ensure that resident funds are managed in accordance with Section 651.055(2), Florida Statutes.

REQUIRED DISCLOSURES

Cypress Village provided a list containing of 171 continuing care contracts executed during the scope period of the examination. A sample consisting of 62 contracts was selected and tested for compliance with Section 651.091(3), Florida Statutes.

Findings:

Section 651.091(3), Florida Statutes, provides in pertinent part that before entering into a contract to furnish continuing care, the provider undertaking to furnish the care, or the agent of the provider, shall make full disclosure, and provide copies of the disclosure documents to the prospective resident or his or her legal representative.

Section 651.091(3)(g), Florida Statutes, requires a provider to make full disclosure on the amount and location of any reserve funds required by Chapter 651, and the name of the person or entity having a claim to such funds in the event of a bankruptcy, foreclosure, or rehabilitation proceeding.

1. **The examination found 11 instances where Cypress Village failed to provide this required disclosure to prospective residents or their legal representative, as required by Section 651.091(3)(g), Florida Statutes.**
- 1a. **Recommendation:** The Office recommends Cypress Village establish adequate procedures to ensure all required disclosure documents are properly delivered to prospective residents or their legal representatives, as required by Section 651.091(3), Florida Statutes. The Office further recommends that a copy of the full disclosure documents be filed with the Office, as required by Section 651.091(4), Florida Statutes.

REQUIRED DISCLOSURES (Continued)

Findings:

In addition, effective July 1, 2010 Section 651.091(3)(h), Florida Statutes, require the provider to include as a disclosure document, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership." Of the 62 continuing care contracts sampled, 17 were entered into after July 1, 2010. The 17 transactions were reviewed for compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes.

2. **In all 17 instances Cypress Village failed to provide a copy of Section 651.071, Florida Statutes, entitled, "Contracts as preferred claims on liquidation or receivership" to prospective residents or their legal representative, as required by Section 651.091(3)(h), Florida Statutes.**

2a. **Recommendation:** The Office recommends Cypress Village establish adequate procedures to ensure all required disclosure documents are properly delivered to prospective residents or their legal representatives, as required by Section 651.091(3), Florida Statutes. The Office further recommends that a copy of the full disclosure documents be filed with the Office, as required by Section 651.091(4), Florida Statutes.

ACCESS TO RECORDS

Records necessary to conduct the examination and determine the degree of compliance with Chapter 651, Florida Statutes and Rule 690-193, Florida Administrative code were requested from Cypress Village in accordance with Section 651.105, Florida Statutes.

Findings:

In four instances Cypress Village failed to make available for examination documents pertaining to the quarterly meetings required to be held by Section 651.085(1), Florida Statutes, in violation of Section 651.105(1), Florida Statutes. Specifically, in four instances Cypress Village failed to make available for examination, documentation that demonstrated quarterly meetings with residents were properly held, as required by Section 651.085(1), Florida Statutes.

Recommendation:

In order for the Office to determine the degree of compliance with Chapter 651, Florida Statutes and Rule 690-193, Florida Administrative Code, the Office recommends Cypress Village establish adequate procedures and controls to ensure documentation is maintained and made available for examination purposes.

EXAMINATION FINAL REPORT SUBMISSION

The Office hereby issues this Final Report based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by BLC Cypress Village.