



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

SOUTH PORT SQUARE, LLC

AS OF

December 31, 2013

FLORIDA COMPANY CODE 88107

**Report Issued:
December 15, 2014**

TABLE OF CONTENTS

Purpose and Scope	1
Company Operations.....	1
Records and Assets	1
Required Escrow Deposits or Waivers	2
Quarterly Meetings with Residents.....	2
Required Disclosures	3
Posting of Records.....	3
Examination Final Report Submission	4

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations Unit, conducted a periodic market conduct examination of South Port Square, LLC (hereinafter "South Port Square") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2011 through December 31, 2013. The on-site and desk examination procedures were completed October 2, 2014.

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 South Port Square. 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

South Port Square, a for-profit Delaware Limited Liability Company, was granted a certificate of authority by the Office to offer continuing care contracts on May 30, 1986. As of December 31, 2013, South Port Square reported: 410 Continuing Care Units, all of which were Independent Living Units; 13 Rental Units and no Skilled Nursing Units. Skilled Nursing and Assisted Living services are contractually provided off-site by an affiliated entity. As of the same date, there were 336 individuals residing at South Port Square.

RECORDS AND ASSETS

Finding:

Section 651.051, Florida Statutes, provides in pertinent part that no records or assets may be removed from this state by a provider unless the Office consents to such removal in writing prior to such removal.

South Port Square failed to obtain written consent from the Office prior to the removal of records from Florida, as required by Section 651.051, Florida Statutes. Specifically, South Port Square relocated some records to the corporate offices in Milwaukee, Wisconsin without notifying or obtaining approval from the Office.

Subsequent Event: In connection with an acquisition application, South Port Square submitted to the Office on June 9, 2014, a written request for consent to a cash management and records system outside Florida. The request is being reviewed as part of the application.

REQUIRED ESCROW DEPOSITS OR WAIVERS

South Port Square provided a list containing the 152 continuing care contracts executed during the scope period of the examination. A random sample consisting of 42 contracts was selected and reviewed for compliance with Section 651.055(2), Florida Statutes.

Finding:

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.

In 12 instances South Port Square failed to deposit resident funds into a properly established escrow account for the seven-day rescission period of the contract or obtain authorization from the resident to hold and not deposit the funds for the seven-day period, as required by Section 651.055(2), Florida Statutes. It should be noted that all 12 instances occurred after South Port Square had submitted their corrective action plan, in response to a similar finding in the prior Report of Examination.

Recommendation: The Office recommends South Port Square establish adequate procedures and controls to ensure resident funds are handled in accordance with the provisions of Section 651.055(2), Florida Statutes.

QUARTERLY MEETINGS WITH RESIDENTS

The quarterly meeting agendas, notices to residents, minutes, and the dates of the meetings contained in the annual reports filed for the scope period were reviewed for compliance with Section 651.085, Florida Statutes.

Finding:

Section 651.085(1), Florida Statutes, states that the governing body of the provider, or its designated representative, shall hold quarterly meetings with the residents of a continuing care retirement community.

South Port Square failed to hold a quarterly meeting with residents, as required by Section 651.085(1), Florida Statutes. Specifically, South Port Square failed to hold a quarterly meeting with residents during the first quarter of 2012.

Recommendation: The Office recommends South Port Square establish adequate procedures and controls to ensure meetings with residents are held quarterly, as required by Section 651.085(1), Florida Statutes.

REQUIRED DISCLOSURES

South Port Square provided a list containing the 152 continuing care contracts executed during the scope period of the examination. A sample consisting of 42 contract files was selected and tested for compliance with Section 651.091(3), Florida Statutes.

Finding:

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 specific disclosure documents to the prospective resident or his or her legal representative.

In two instances South Port Square failed to timely provide to the prospective resident or their legal representative copies of all required disclosures prior to their entering into the continuing care contract, as required by Section 651.091(3), Florida Statutes. The disclosure documents were provided to the prospective residents one day and eight days after each resident signed their contracts.

Recommendation: The Office recommends South Port Square establish adequate procedures and controls to ensure all required disclosure documents are properly delivered to the prospective residents or his or her legal representative, as required by Section 651.091(3), Florida Statutes.

POSTING OF RECORDS

Finding:

Section 651.091(2)(b), Florida Statutes, requires that each continuing care community post in a prominent position in the facility which is accessible to all residents and the general public a concise summary of the last examination report issued by the Office, with references to the page numbers of the full report noting any deficiencies found by the Office, and the actions taken by the provider to rectify such deficiencies, indicating in such summary where the full report may be inspected in the facility.

1. **South Port Square failed to post in a prominent position in the facility, a copy or summary of the last Market Conduct Examination Report issued by the Office along with the actions taken to rectify the deficiencies, as required by Section 651.091(2)(b), Florida Statutes.** Although copies of the documents were available in the community, the summaries of the documents, to include a notation where the full documents may be inspected in the community, were not posted.
 - 1a. **Recommendation:** The Office recommends South Port Square establish adequate procedures and controls to ensure the required information is posted in compliance with Section 651.091(2)(b), Florida Statutes.

POSTING OF RECORDS (Continued)

Finding:

Section 651.091(2)(c), Florida Statutes, requires that each continuing care community post in a prominent position in the facility which is accessible to all residents and the general public a summary of the latest annual statement, indicating in the summary where the full statement may be inspected in the facility.

2. **South Port Square posted a summary of the latest annual statement, but, failed to identify where the full statement was available for inspection, as required by Section 651.091(2)(c), Florida Statutes.**
- 2a. **Recommendation:** The Office recommends that, in instances where summaries of the documents are posted, South Port Square identify in the posting the location at which the full annual statement is available for inspection by residents and general public; and establish adequate procedures and controls to ensure compliance with Section 651.091(2)(c), Florida Statutes.

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 South Port Square.