



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

LAKEHOUSE WEST, LLLP

F/K/A

LAKEHOUSE WEST, LTD.

AS OF

December 31, 2012

FLORIDA COMPANY CODE 88100

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PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a periodic market conduct examination of Lakehouse West, LLLP f/k/a Lakehouse West, LTD (hereinafter "Lakehouse West") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was from January 1, 2010 through December 31, 2012. The on-site and desk examination procedures were completed on December 13, 2013.

The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes and Chapter 69O-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 Lakehouse West. 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

Lakehouse West is a for-profit Continuing Care Retirement Community located in Sarasota, Florida. In August 2013, Lakehouse West changed its organizational structure from a Limited Partnership to a Limited Liability Limited Partnership. The General Partner is BFR, LLC. Lakehouse West is managed by the affiliated entity Blivas, Fiala & Rowe, Chartered. As of December 31, 2012, Lakehouse West reported 156 Continuing Care Units consisting of 150 Independent Units and 6 Assisted Living Units. In addition, there were 19 Rental Units reported. As of the same date, Lakehouse West reported 121 individuals residing at the community.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Lakehouse West provided a list containing the 51 continuing care contracts executed during the scope period of the examination. A random sample consisting of 33 transactions was selected from the list. Of the 33 contracts in the sample, 31 contracts were executed on or after July 1, 2010. The 31 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, 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)

At the time of examination, Lakehouse West did not have an established escrow account for the purpose of depositing and holding a resident's funds for the rescission period of the contract. Consequently, there were 23 instances where Lakehouse West failed to deposit and maintain resident funds in an escrow account for the entire seven-day rescission period of the contract or obtain authorization from the prospective resident to hold and not deposit the check for the seven-day period.

Recommendation: The Office recommends Lakehouse West promptly take steps to establish an escrow account and 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

Lakehouse West provided a list containing 51 continuing care contracts executed during the scope period of the examination. A random sample consisting of 33 contracts was selected from the list and tested for compliance with Section 651.091(3), Florida Statutes, and Section 651.055(4), Florida Statutes.

Findings:

Section 651.055(4), Florida Statutes, provides in pertinent part that before the transfer of any money or other property to a provider by or on behalf of a prospective resident, the provider shall present a copy of the contract to the prospective resident and all other parties to the contract. The statute further provides that the provider secure a signed and dated statement from each party to the contract certifying that a copy of the contract with the specified attachments was received.

1. **In three instances Lakehouse West failed to timely provide a copy of the continuing care contract and obtain a signed statement from each party to the contract that a copy of the contract had been provided prior to the transfer of money or other property, as required by Section 651.055(4), Florida Statutes.**

1a. **Recommendation:** The Office recommends Lakehouse West establish adequate procedures and controls to ensure a signed and dated statement is secured from each party to the contract certifying that a copy of the contract was properly received.

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.

REQUIRED DISCLOSURES (Continued)

Effective July 1, 2010, Section 651.091(3)(h), Florida Statutes, required the provider to include, as a required disclosure document, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership". Of the 33 contracts in the sample, 31 contracts were executed on or after July 1, 2010. All 31 transactions were reviewed to determine compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes.

2. **In 21 instances Lakehouse West failed to provide as a required disclosure to the prospective resident or their legal representative, a copy of Section 651.071, Florida Statutes, as required by Section 651.091(3)(h), Florida Statutes.**

2a. **Recommendation:** The Office recommends Lakehouse West establish adequate procedures to ensure all required disclosures are properly afforded to prospective residents or their legal representatives.

Subsequent Event: Upon notification of this disclosure requirement, Lakehouse West promptly added a copy of Section 651.071, Florida Statutes, to its disclosure documents.

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.

Findings:

Section 651.085(1), Florida Statutes, states in pertinent part that the governing body of the provider or the designated representative of the provider shall hold quarterly meetings with residents and that residents are entitled to at least seven days advance notice of each quarterly meeting.

In three instances Lakehouse West failed to provide documentation to demonstrate residents were provided with at least seven days advance notice of quarterly meetings, held June 1, 2012, September 7, 2012 and December 7, 2012, as required by Section 651.085(1), Florida Statutes.

Recommendation: The Office recommends Lakehouse West establish adequate procedures to ensure that residents receive proper notice of quarterly resident meetings and maintain documentation of proper notice.

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 Lakehouse West in accordance with Section 651.105(1), Florida Statutes.

Findings:

In five instances Lakehouse West failed to maintain and provide documents for examination as required by Section 651.105, Florida Statutes. In each of the five instances Lakehouse West failed to produce for examination the disclosure document receipt executed by the resident. As a result, the Office was unable to determine if residents timely received the required disclosures pursuant to Sections 651.055(4), and 651.091(3), 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 Lakehouse West establish adequate procedures and controls to ensure proper documentation that is reflective of the actual transaction 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 Lakehouse West.