

MINUTES of the Regulatory Council for Community Association Mangers Telephone Conference Call

Date: Wednesday, July 16, 2004, 10:30 a.m.

Location: Telephone Conference Call

Council Members: Reginald Billups, Chair; Marilyn Battista, Vice Chair; Edith Yates; Chris Brown; Debra Glass, Steven Czonstka

Staff: Julie Malone, Executive Director
Donna Salters, Government Analyst
Brian Higgins, Prosecuting Attorney
Barbara Edwards, Assistant Attorney General
Jerry Wilson, Deputy Director Professions & Regulation
Rick Morris, Director Professions & Regulation

Others Present: David L. Richards, PA
Bob Rinehart, Executive Management Services
Bill Carter, COMA Florida
Molley Foley-Healy – CAI
Harry Charles, Brevard County
Bob Paquin, COMA of Naples
Michael Richter, CPA

The meeting was called to order by Mr. Billups at 10:35 a.m. and a quorum was established.

For the record, Ms. Malone recommended that Mr. Brown be excused from the January 23, 2004 and April 23, 2004 Council meeting. Mr. Billups affirmed the request and Mr. Brown's absences are excused.

The minutes from the April 23rd meeting were approved with the following correction: Barbara Edwards, Assistant Attorney General rather than Assistant General Counsel.

Mr. Czonstka offered the motion to accept the minutes with the changes to Ms. Edwards's title. Ms. Battista seconded it and the motion passed unanimously.

Mr. Billups reported on the pending legislation regarding the licensing of management companies and the ability to increase fees for CAM business registrations. He reported that from the previous meeting, the Council did agree to support legislation that would require businesses to be licensed with the proviso that the department would support it as well. Mr. Billups stated did receive a telephone call from a department representative and Secretary Carr stating that for a number of reasons the legislation would not be supported. Mr. Billups further stated that he called Mr. Benson and Mr. Pensky to inform them of the department's response. He indicated that Mrs. Carr stated that she had not received a copy of the draft for the proposed legislation. Mr. Billups stated that the

Council should not push any legislation that does not have the support of the department, however there should be further discussion on this matter and he wants to make sure that this issue does not fall through the cracks.

Ms. Edwards reported that Rule 60-20.504, F.A.C for the fee change disbursement had been adopted. Additionally, Rule 61-20.502 expired un-adopted and will be re-noticed and published on July 23, 2004 and adopted shortly thereafter. She reported that Rule 61-20.001, F.A.C. concerning licensing procedures for manager's license and 61-20.002, F.A.C. concerning status expiration and renewal of manger's license was forwarded to the department for response. She stated that she was unsuccessful in trying to communicate with Gail Scott-Hill concerning these rules since March and nothing has happened. She explained that those rules as they are on the books do not reflect what is going on and the Council does not have any authority for the rules.

Ms. Malone commented that the Office of the General Counsel (OGC) is in the process of re-evaluating the rules submitted in relation to current practices and procedure.

Mr. Billups requested recommendations from Mrs. Edwards or Ms. Malone concerning the Council's authority. Ms. Malone stated that the Council would need some comments from OGC. Ms. Battista asked if the Council have any exposure since the rules have expired? Ms. Edwards commented that the rules have not expired, but with the re-engineering process, the statues were changed. The authority for all rules regarding the applications and application process was taken from all boards and councils and given to the department; therefore the rules currently in placed no longer have statutory authority and should be repealed. She stated that every year reports goes to the legislature concerning rules that have no authority and should be revealed to the legislature at the beginning of the year. Furthermore, the rules reflect the procedures that were in place prior to the re-engineering and not the procedures that are in place now. For example, if an applicant wants to find out what to do, the rules don't give them help because they do not reflect what those procedures are.

Mr. Billups stated that if it is a work in progress, is there any way that the Council can go back and request information from OGC. Ms. Malone stated that she would be happy to request that information with direction from the Council.

Ms. Battista asked if the Council would have any input in the development of upcoming rules? Ms. Edwards replied that she did not know because the upcoming rules have to implemented by the department and it would be department policy if the Council would have any input or not. Ms. Edwards explained that she has previously attempted to amend the rules so that they would reflect actual requirements for anyone who may need guidance.

Ms. Malone explained that the proposed rule changes were forwarded to the OGC. She stated the OGC is in the midst of re-evaluating all rules related to the re-engineering process in light of current procedure and they would take the recommendations submitted by Ms. Edwards into consideration.

Mr. Billups requested a status report from OGC concerning the rules by the next meeting. Ms. Edwards indicated that she would call Gail Scott-Hill concerning this report.

Mr. Czonstka asked, "if someone asked what procedures they are to follow if there is no statutory basis for the ones that are in existence, what do we tell them?" Ms. Edwards commented that applications and other information are available on the web. Ms. Malone stated that generally citizens seeking a license will contact the department directly, and the application process lies with the department.

Executive Director Report

Ms. Malone reviewed the financial statement for the quarter ending March 31, 2004 with a comparison to 2003 for the unlicensed activity account and the operating account.

Ms. Battista asked a question regarding the net asset of \$66,563 in 2003, and the legislature transferred out \$63,333 which was part of the cash fund sweep to the \$25 million dollar out of the Professional Regulation Trust Fund.

Ms. Malone provided the Council with additional information as requested from the last meeting in regards to the transfer to the working Capital Trust Fund of that \$25 million.

Ms. Yates asked, "how long will the special assessment from 2002 protect the Council because next year there will be a positive cash balance. Ms. Malone stated that currently there is a positive cash balance and she is not aware of any plans whereas the legislature will do another sweep.

Mr. Billups asked that if someone from staff could do a 10 year projection of cash flow for CAM (with no growth in CAM) with nothing changing in terms of the retention and using the same fee structure available for the next CAM meeting. Additionally, Ms. Battista asked to see the history of the last 5 or 6 years so the Council can see how the new projected expenses compare to the past several years of actual expenses. Additionally, Ms. Yates asked that staff look into a cost of living percentage increase. Ms. Malone stated that she believed that there must be statutory authority that allows the Council to configure such an increase. Ms. Yates suggested that the Council look at how the other statutes are drafted. Mr. Wilson addressed the Council stating that he is not familiar with any other Boards having cost of living percentage increases and that if a Council member is aware of a Board doing this, please provide him with that information for review. He further explain that raising fees statutorily is not part of the Governor's plan and this is the time of year when the department needs input from the board as to what they want to accomplish in the next legislative sessions. Ms. Yates expressed her concern for boards to have the ability to raise fees incrementally rather than assess large fees to licensees as in the past.

Regulations Report

There were 325 complaints submitted and 129 complaints were found legally sufficient. There were 24 complaints on unlicensed activity and 101 investigations assigned. There were 83 investigations completed this quarter and 6 informal recoveries.

Continuing Education Rule Change

Ms. Malone reported on the opposition to Rule 61-20.508(1) which will become effective October 1, 2004. She explained that initially the Council needed to have some kind of authority to allow distant education, interactive correspondence and Internet courses. The council provided an allowance of eight (8) hours to be completed by distant education and the twelve (12) hours by classroom. Mr. Billups summarized the opposition explaining that there are many who feel that all courses should be done by

correspondence. There were three meetings held. The first was February 21st, 2003; April 17th, 2003 and July 11th, 2004 discussing these changes. Mr. Billups noted the dates of open meetings as many of the correspondences stated that this rule change was made on an open forum.

It was explained that the rules never allowed distant education, however correspondence classes some providers who were not allowed by the rule were offering. Therefore the objection is to the limit in the number of hours allowed for distant education courses.

Mr. Czonstka commented that distant education is the growing trend that is accepted in the education community and he would like the council to look at reducing the hours back to 16 hours which will compensate allowing a person to complete CE in one full day if travel is required rather than 10 hours which will require an additional day

Mr. Brown commented that there were things in the petition letters that he had not thought about. He agreed with Mr. Czonstka in regards the inconvenience of the managers expense cause CE could not be done in one day and lesson the twelve hours down to eight hours.

Mr. Richard, addressed the Council concerning the burden that is placed on licensees who live out of state, and that there are no provision for handicapped and that there are no other guidelines for providers to address these issues

Mr. Richter explained that he did not know of anything in the rules, as he was the first one approved for correspondence classes. He stated that it is a step backward when correspondence classes are eliminated and he does not understand why CAM licensees should be so inconvenienced. With the Council discussing licensing retention, it seems unreasonable to cause this hardship on those living out of state. Also with many that attend the class, they are only required to show up and often are doing other work, but with correspondence forces the licensees to review and absorb information.

Mr. Charles addressed the Council stating that if there is any advantage to having this rule, there are two basic assumptions the first is the assumption that classroom instruction better and if it is better it must be "enough better" to justify the additional expense in taking classroom instruction. He expressed that the handouts and the reference material itself are what are most valuable and he does a recommended change in the rule.

Molley Foley-Healy stated that the classroom requirement might be most beneficial to senior level management where they are sharing interaction and discussion.

Mr. Rinehart stated that he agreed with both Mr. Charles and Ms. Foley-Healey regarding the idea that classroom interaction is most important to senior level management rather than required by all licensees.

Ms. Glass expressed concerns regarding the public assuming that the Council was completely going against correspondence. She stated that she had concerns with license holders missing the identical questions with correspondence courses and she feels that part should be live.

Elections of Officers

A motion was offered for Mr. Billups as chairman. Ms. Battista seconded it and the motion passed unanimously.

Ms. Battista offered a motion for Chris Brown to serve as vice-chairman for the Council. Mr. Billups seconded it and the motion passed unanimously

It was noted that all Council members have been re-appointed by the Governors Appointment Office.

The next meeting is scheduled for October 8, 2004 at The Florida Mall Hotel, 1500 Sand Lake Road, Orlando Florida. There will be a workshop held from 10:00 a.m. – 12:00 p.m. and the general business meeting will begin at 1:30 p.m. The location of the next meeting.

The meeting was adjourned at 12:06 p.m.