

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
REGULATORY COUNCIL OF COMMUNITY
ASSOCIATION MANAGERS,

Petitioner,

vs.

Case No. 18-2776PL

JAMES MICHAEL ROSSI,

Respondent.

_____ /

RECOMMENDED ORDER

A final hearing was held in this case on August 22, 2018, in Tallahassee, Florida, before Suzanne Van Wyk, Administrative Law Judge for the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Wayne Mitchell, Esquire
Michelle Snoberger, Qualified
Representative
Department of Business and Professional
Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-2202

For Respondent: H. Richard Bisbee, Esquire
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STATEMENT OF THE ISSUES

Whether Respondent, James Michael Rossi, violated section 468.436(2)(b)2., Florida Statutes (2015),^{1/} as alleged in the

Amended Administrative Complaint; and, if so, what penalty should be imposed.

PRELIMINARY STATEMENT

On May 9, 2018, the Department of Business and Professional Regulation (Department) served an Administrative Complaint upon Respondent alleging that Respondent had violated statutory provisions governing community association managers; specifically, that Respondent failed to maintain official association records and comply with professional and statutory standards in performance of community association management services. Respondent timely requested a formal hearing to dispute the allegations, which was forwarded to the Division of Administrative Hearings (Division) and scheduled by the undersigned for final hearing on August 2, 2018.

On June 4, 2018, the Department moved to amend its Administrative Complaint, which the undersigned denied. The undersigned granted the Department's Second Amended Motion for Leave to Amend Complaint on June 14, 2018, and the Amended Administrative Complaint was filed on June 21, 2018.

The undersigned granted a stipulated request to continue the final hearing from August 2 to August 9, 2018, due to the unavailability of a witness. The case was subsequently consolidated with Case No. 18-3817RU, an unadopted rule challenge in which Respondent alleged the Department relied on

an unadopted rule in pursuing its Amended Administrative Complaint against Respondent. The cases were initially consolidated, and the case continued again to August 22, 2018, to allow the parties time to prepare the consolidated case for final hearing.

The Department subsequently moved to dismiss the rule challenge, which was denied with leave to amend. Respondent filed an amended rule challenge petition on August 10, 2018. The Department filed a Motion to Dismiss, which was granted and the cases were severed. Respondent's August 13, 2018 Motion for a Brief Continuance of the Final Hearing, the basis of which was counsel's own trial calendar, was denied.

The docket reflects a number of pre-hearing discovery disputes which twice required the undersigned to grant the Department's Motions to Quash Improperly Issued Subpoenas and issue protective orders. The undersigned took pains to remind counsel of their professional obligations under the Rules of Professional Conduct, as well as the Florida Bar's Professionalism Expectations.^{2/}

The final hearing commenced as rescheduled on August 22, 2018, in Tallahassee, Florida. The Department offered the testimony of Amber Beasley, Department Investigator Specialist II; Valeria Levenseller, Department Investigator Supervisor; Christopher Arnold; Amy Davis; George Korinsky; and

Dawn Warren, who was accepted as an expert in Community Association Management. Petitioner proffered the testimony of Kevin Obos, an attorney from whom Petitioner sought opinion testimony which was disallowed, as well as Exhibit P9.

Petitioner's Exhibits P1, P1a, P2 through P7, P8 as amended, P10 as amended, and P14 through P17 were admitted in evidence.

Respondent offered the testimony of Gerald O'Reilly and Dawn Warren, and testified on his own behalf. Respondent's Exhibit R28 was admitted in evidence.

The two-volume Transcript of the proceedings was filed on September 5, 2018. The parties timely filed Proposed Recommended Orders on September 17, 2018, which have been considered by the undersigned in preparing this Recommended Order.

FINDINGS OF FACT

1. The Department is the state agency charged with licensing and regulating Community Association Managers (CAMs), pursuant to sections 468.433 and 486.436, Florida Statutes, respectively.

2. At all times material hereto, Respondent was a licensed Florida CAM, having been issued CAM license number 35631.

3. At all times relevant hereto, Respondent was the CAM for Ocean Villa Condominium Association, Inc. (Ocean Villa). At

times during Respondent's tenure as Ocean Villa's CAM, Respondent provided CAM services to other associations.

4. During the relevant time period, Ocean Villa did not establish a credit card in its name. Respondent's practice was to purchase goods for Ocean Villa using his personal credit card, and reimburse himself via check from the Ocean Villa checking account. Respondent submitted his credit card statements and some receipts as backup for the reimbursement checks.

5. In December 2016, Ocean Villa obtained a debit card in its name and Respondent ceased the practice of making purchases on behalf of Ocean Villa using his personal credit card.

6. In the Amended Administrative Complaint, the Department alleges as follows:

On or about the following dates: May 2014; June 2014; March 2015; May 2015; and September 2015, Respondent wrote checks to himself from the Association's checking account, for which Respondent failed to maintain and/or provide the corresponding receipts or invoices substantiating the total amount for each of those checks.

7. The parties stipulated to introduction of seven checks Respondent wrote to himself allegedly in reimbursement for expenditures made by him on behalf of Ocean Villa.

8. Check No. 1989 was written on May 13, 2014, in the amount of \$519.00. The check stub indicates the payment was

made for a "paint striper roll master," a piece of equipment used in striping parking lots.

9. As backup for the reimbursement, Respondent submitted an email from sales@paintsprayersplus.com to Respondent confirming an order placed May 13, 2014, for "Newstripe Rollmaster 1000 Parking Lot/Warehouse Line Striper" for a charge of \$519.00.

10. Under "payment information," the email reads, "CREDIT (Denied)." The email further reads, "Your Credit Card payment has been denied. If you do not have a customer account, please contact sales@paintsprayersplus.com for assistance."

11. Respondent also introduced his June 2014 U.S. Bank credit card statement, which includes a charge on May 15, 2014, to Paintsprayersplus in the amount of \$519.00.

12. Respondent wrote Check No. 2043 on June 23, 2014, in the amount of \$362.98. The check stub describes the purpose as "Reimburse Expenses."

13. As backup for the reimbursement, Respondent produced his June 2014 U.S. Bank credit card statement. The statement is redacted to exclude personal charges. The statement includes five separate charges at Office Depot, for a total amount of \$147.64; a charge of \$9.00 for conference call services; the charge of \$519.00 from Paintsprayersplus; and a charge of \$207.00 from Newstripe, Inc.

14. Respondent testified the Newstripe, Inc. charge was for the paint used to restripe the parking lot at Ocean Villa.

15. The redacted credit card statement contains Respondent's handwritten note next to the Paintsprayersplus charge of \$519.00 "PO 5-13-14 Ck# 1989," indicating he previously reimbursed himself for that charge via Check No. 1989.

16. The redacted credit card statement also contains Respondent's handwritten note totaling the unredacted charges to \$881.98, subtracting the \$519.00 previously reimbursed for the restriper, leaving a remainder of \$362.98 to be reimbursed. That amount matches the amount Respondent reimbursed himself via Check No. 2043.

17. Respondent wrote Check No. 2361 on March 6, 2015, in the amount of \$108.70. The check stub lists two invoices both dated March 6, 2015: \$10.72 for "Phone cord for conference calls," and \$97.98 for "Copy paper and stamps."

18. As backup for the reimbursement, Respondent produced a receipt from Office Depot dated March 3, 2015, and a receipt from Home Depot dated February 26, 2015.

19. The Home Depot receipt is for a "50' white phone line cord" at \$9.97, for a total of \$10.72, after tax.

20. The Office Depot receipt lists three separate charges: one for two boxes of 9 x 11 inch paper at \$53.99 each;

two quantities of U.S. postage stamps at \$49.00 each; and another box of 9 x 11 inch paper at \$53.99. All three boxes of paper were discounted \$8.00 each, and the total, after tax, for the purchased items was \$195.96.

21. Respondent handwrote on the receipt after the total, "/2 97.98 Half to OV & Half to TP." Respondent testified, credibly, that the supplies were purchased for both Ocean Villa and a second association for which he served as CAM.

22. Respondent wrote Check No. 2371 on March 19, 2015, in the amount of \$554.51. The check stub notes the purpose was reimbursement for three separate invoices dated March 19, 2015, for "office supplies." The amounts corresponding with each invoice are \$120.34, \$386.28, and \$47.89, respectively.

23. As backup for the reimbursement, Respondent introduced his redacted U.S. Bank credit card statements for January and February 2015, as well as an Office Depot receipt dated March 7, 2015.

24. The February 2015 bank statement contains the following unredacted charges:

01/16	Office Depot #2821	\$24.48
01/18	Conf. Call Services	\$9.00
02/03	Office Depot #2821	\$83.07
02/09	USPS	\$3.79

25. The total of the unredacted charges is \$120.34, the same amount as the first invoice for office supplies noted on the check stub for February 10, 2015.

26. The January 2015 bank statement contains the following unredacted charges:

12/10	Office Depot #2821	\$28.20
12/11	USPS	\$134.33
12/15	Office Depot #2821	\$49.00
12/24	Conf. Call Services	\$9.00
01/02	Lowes #02367	\$22.00
01/06	Office Depot #2821	\$143.75

27. The charges total \$386.28, the same amount as the second invoice for office supplies noted on the check stub for January 12, 2015.

28. The March 7, 2015 receipt from Office Depot lists two charges: No. 8 Envelopes at \$36.99, and two of another item (unidentifiable based on the receipt) at \$3.99 each for a total of \$7.98. The total purchase, after tax, was \$47.89, the same amount as the third invoice for office supplies noted on the check stub.

29. Respondent wrote Check No. 2378 on March 20, 2015, in the amount \$359.40. The check stub describes the purpose as "Miscellaneous."

30. As backup documentation for the reimbursement, Respondent introduced his March 2015 U.S. Bank credit card statement, which lists the following unredacted charges:

02/19	Conf. Call Services	\$9.00
02/24	USPS	\$12.35
02/25	Amazon Marketplace	\$113.56
02/27	Amazon Marketplace	\$176.60
03/07	Office Depot	\$47.89

31. Respondent testified, credibly, that the Amazon Marketplace charges were for personalized uniform jackets for Ocean Villa maintenance and security personnel, purchased at the direction of the Board.

32. The unredacted charges total \$359.40, the same amount as reimbursement Check No. 2378.

33. Respondent wrote Check No. 2459 in the amount of \$2,364.74 on May 22, 2015. The check stub lists nine separate purchases in April and May of 2015, including binders for Ocean Villa's financial statements, an external hard drive, file folders, sun umbrellas and bases, and postage for certified mail.

34. As backup in support of the reimbursements, Respondent introduced nine receipts from a variety of vendors, including Office Depot, Home Depot, WalMart, Sam's Club, and USPS.

35. The last check at issue is Check No. 2593 which Respondent wrote on September 24, 2015, in the amount of \$471.50. The check stub lists four separate invoices for postage.

36. As backup documentation for the reimbursement, Respondent introduced four separate USPS receipts which match the amount listed on the check stub for each invoice, and which total \$471.50.

37. In this case, the Department charges Respondent with two counts pursuant to section 468.436(2)(b)2., which subjects a licensee to discipline for violating any rule adopted by the Department.

Count I

38. In Count I of the Amended Administrative Complaint, the Department alleges Respondent violated Florida Administrative Code Rule 61E14-2.001(3)(d), which requires maintenance of the "official records" of an association as required by section 718.111(12), Florida Statutes. Specifically, the Department charges Respondent with failure to maintain "[a]ccurate, itemized, and detailed records of all receipts and expenditures," as required by section 718.111(12).

39. The Department introduced the testimony of Dawn Warren, a 16-year licensed CAM, who has been employed as CAM for two separate condominium associations, served as president of a

condominium association complex for 15 years, and previously served on the Regulatory Council of Community Association Managers for eight years (three years as Chair).

40. Through Ms. Warren's testimony, the Department attempted to establish that a CAM must keep vendor receipts of each purchase in order to comply with the statutory requirement to maintain "[a]ccurate, itemized, and detailed records of all receipts and expenditures." Ms. Warren testified consistently that the vendor receipt was the only appropriate record of what was purchased by, or on behalf of, the association.

41. The Department admitted, through Ms. Warren's testimony, that the backup documentation for Check Nos. 2361, 2459,^{3/} and 2593 were appropriate itemized records of what was purchased on behalf of the association.

42. The Department's allegations on Count I can be narrowed to whether Respondent failed to maintain "[a]ccurate, itemized, and detailed records of all receipts and expenditures," based on the records associated with four checks: 1989, 2043, 2371, and 2378.

43. Ms. Warren's opinion that itemized receipts for each purchase are required hinges on her interpretation of the statute, summarized as follows:

Well, right in 718, it does say itemized receipts and expenditures. So an itemized receipt would be something that's itemized,

which you - which I and anyone that I know that's a CAM turns in a receipt, and it itemizes what they bought.^[4/]

44. Despite Ms. Warren's depth of experience as a CAM, her testimony was not persuasive. Ms. Warren's read of the statute is incorrect. It does not read, "itemized receipts," it reads, "itemized and detailed records of all receipts and expenditures."

45. Further, Ms. Warren's opinion that the vendor receipt is required because it is the only record of what was actually purchased, is not credible. With regard to Check No. 2361, Ms. Warren testified that, based on the receipt, she could identify that the three purchases were, in order, envelopes, postage, and paper. The first and third items on the receipt have the exact same product ID and description--196517 PPR,X-9.11" .10. Yet, Ms. Warren testified that the first charge on the receipt was for No. 10 envelopes, while the last item on the receipt was for paper. She subsequently testified as to the first charge, "I don't know what it is exactly."

46. Ms. Warren's opinion that the vendor's itemized receipt is the only allowable record of expenditures, because it is "the record of what was purchased," was undercut by her own inability to identify from the vendor itemized receipt specifically what was purchased on behalf of the association.

47. The Department's focus on receipts is misplaced. As correctly identified by Respondent, the items purchased by him on behalf of Ocean Villa are expenditures, not receipts. The statute requires Ocean Villa, through its CAM, to maintain "itemized and detailed records of all . . . expenditures."

48. Respondent testified, credibly, that he maintains copies of all Ocean Villa expenditures organized by both date (month, day, and year) and by vendor, as well as QuickBooks records of all Ocean Villa documents.

49. Further, with the exception of Check Nos. 2043 and 2378, the checkstubs entered into evidence are itemized as to the date of purchase, the amount paid, and a description of the item purchased. These are detailed, itemized records of the expenditures made.

50. The check stub for Check No. 2043 lists an invoice dated June 23, 2014, in the amount of \$362.98 to "Reimburse Expenses," followed up with a redacted credit card statement listing five separate Office Depot charges, a charge from Newstripe, Inc., and a \$9.00 charge for conference call services.

51. At hearing, it was established that the \$9.00 charge for conference call services was a recurring monthly charge to the association. It was also established that the \$200.00 charge to Newstripe, Inc., was for the paint used to restripe

the Ocean Villa parking lot. The record does not support a finding of what specifically was purchased at Office Depot for a total of \$146.74.

52. The check stub for Check No. 2378 lists one invoice in the amount of \$359.40 for "Miscellaneous" expenses, to which Respondent attached his unredacted March 2015 credit card statement. The statement lists unredacted charges of \$9.00 for conference call services, \$12.35 for postage, \$47.89 for purchases at Office Depot, and the Amazon Marketplace charges for uniform jackets totaling \$290.16. Respondent introduced the March 7, 2015 Office Depot itemized receipt showing two purchases: one for envelopes at \$36.99, and one for an unidentified product^{5/} at \$3.99 each, for a total of \$47.89.

53. The record does not support a finding of what specifically was charged at Office Depot for \$3.99 x 2.

54. The Department did not prove Respondent failed to maintain "[a]ccurate, itemized, and detailed records of receipts and expenditures." At most, the Department proved that Respondent reimbursed himself, through Check Nos. 2043 and 2378, for expenditures totaling \$154.72 without a written itemized account of what was purchased.

Count II

55. In Count II of the Amended Administrative Complaint, the Department alleges Respondent violated rule 61E14-

2.001(2)(c), which requires a CAM to "perform all community association management services . . . to professional standards and to the standards established by Section 468.4334(1), F.S."

56. The Department argues Respondent failed to meet undefined "professional standards" by reimbursing himself for expenses incurred on behalf of the association without itemized vendor receipts for each expense.

57. Ms. Warren testified repeatedly that Respondent did not submit itemized receipts to support reimbursement checks to himself for purchases made on behalf of Ocean Villa. She expressed her opinion that a CAM's reimbursement records should include the itemized receipts for purchases for which reimbursement is sought, and that, in her 15 years as an association president, she would never sign a check to reimburse a CAM without the itemized receipt for the purchases made.

58. Ms. Warren's opinion was based solely on her practice and not on any standards or guidelines established by a professional organization. Ms. Warren's testimony did not establish that her practice constituted recognized "professional standards," because she was not able to identify at hearing the specific items purchased based on the Office Depot itemized receipt.

59. Section 468.4334(1) requires, in pertinent part, as follows:

A [CAM] and a [CAM] firm shall discharge duties performed on behalf of the association as authorized by this chapter loyally, skillfully, and diligently; dealing honestly and fairly; in good faith; with care and full disclosure to the community association; accounting for all funds; and not charging unreasonable or excessive fees.

60. In an apparent effort to prove Respondent violated the specific professional standards captured in section 468.4334(1), the Department introduced Respondent's management services contracts with Ocean Villa, and testimony regarding his performance of his duties pursuant to the contracts.

61. The testimony suggested that the checks at issue were reimbursement for expenses Respondent did not have Board approval to incur. For example, Christopher Arnold, who became Ocean Villa President in October 2017, testified that Respondent was limited by the contract to incur expenses for repairs up to \$500.00 without Board approval. Mr. Arnold argued that, as none of the expenditures for which Respondent reimbursed himself were for repairs, Respondent did not deal honestly and fairly, or with good faith, in reimbursing himself for the expenses because he did not have Board approval to incur them.

62. Mr. Arnold's testimony was neither credible nor persuasive. Paragraph 4 of Respondent's contract in effect beginning in June 2015, titled "Reimbursement of Expenses," requires the association to reimburse the CAM for costs incurred

"in providing services, material, and supplies to, or for the direct benefit of," the association. Paragraph 4 contains no monetary limit on the amount of costs to be reimbursed. In contrast, paragraph 5.H. of the contract, upon which Mr. Arnold relied, requires the CAM to make repairs and perform other functions in order to "maintain and operate the Association," and limits expenditures for repairs to \$500 without "prior consent from the Board's representative unless it is a budgeted item."

63. The Department did not introduce any credible evidence that Respondent's reimbursements at issue in this case were contrary to any term of Respondent's contract with Ocean Villa.

64. Moreover, Respondent's prior contract with Ocean Villa--which preceded the June 2015 contract--required the association to reimburse the CAM "for all reasonable expenses incurred by the [CAM] in the course of its engagement." The Department did not introduce any evidence that Respondent's reimbursements were not for "reasonable expenses incurred." The record established that neither the Ocean Villa Board nor its President in office during 2014 and 2015 ever questioned Respondent's reimbursements.

65. The Department did not prove Respondent's reimbursement of expenses by Check Nos. 2361, 2371, 2378, 2459,

and 2593,^{6/} violated any professional standard, including those set forth in section 468.4334(1).

CONCLUSIONS OF LAW

66. The Division has jurisdiction over both the subject matter of, and the parties to, this proceeding under the provisions of sections 120.569 and 120.57(1), Florida Statutes (2018).

67. This is a proceeding in which Petitioner seeks to discipline Respondent's license as a CAM. Because disciplinary proceedings are considered to be penal in nature, Petitioner is required to prove the allegations in the Administrative Complaint by clear and convincing evidence. Dep't of Banking & Fin. v. Osborne Stern and Co., 670 So. 2d 932 (Fla. 1996); Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

68. As stated by the Florida Supreme Court:

Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

In re Davey, 645 So. 2d 398, 404 (Fla. 1994) (quoting, with approval, Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA

1983)); see also In re Henson, 913 So. 2d 579, 590 (Fla. 2005).
“Although this standard of proof may be met where the evidence is in conflict, it seems to preclude evidence that is ambiguous.” Westinghouse Elec. Corp., Inc. v. Shuler Bros., Inc., 590 So. 2d 986, 989 (Fla. 1st DCA 1991).

69. Section 468.436 is penal in nature, and must be strictly construed, with any ambiguity construed against Petitioner. Penal statutes must be construed in terms of their literal meaning, and words used by the Legislature may not be expanded to broaden the application of such statutes. Elmariah v. Dep’t of Bus. & Prof’l Reg., 574 So. 2d 164, 165 (Fla. 1st DCA 1990); see also Beckett v. Dep’t of Fin. Servs., 982 So. 2d 94, 100 (Fla. 1st DCA 2008); Whitaker v. Dep’t of Ins., 680 So. 2d 528, 531 (Fla. 1st DCA 1996); Dyer v. Dep’t of Ins. & Treas., 585 So. 2d 1009, 1013 (Fla. 1st DCA 1991).

70. Moreover, the allegations against Respondent must be measured against the law in effect at the time of the commission of the acts alleged to warrant imposition of discipline. McCloskey v. Dep’t of Fin. Servs., 115 So. 3d 441 (Fla. 5th DCA 2013).

71. The Department seeks to discipline Respondent pursuant to section 468.436(2)(b)2., which provides that “violation of any lawful . . . rule . . . adopted by the

department or the council" constitutes grounds for disciplinary action.

Count I

72. The Department alleges Respondent violated rule 61E14-2.001(3)(d) by "fail[ing] to maintain the records of a community association manager or management firm or the official records of any applicable association, as required by [s]ection 718.111(12)."

73. The Department did not carry its burden to prove, by clear and convincing evidence, that Respondent failed to maintain "accurate, itemized, and detailed records of all receipts and expenditures" for Ocean Villa. The evidence did not leave the undersigned with a firm conviction in her mind that Respondent's recordkeeping on behalf of Ocean Villa failed to meet the requirements of 718.111(12)(a)11.a.; thus the Department did not prove Respondent violated rule 61E14-2.001(3)(d).

73. Because the Department did not prove Respondent violated the rule, the Department did not establish grounds for disciplinary action against Respondent pursuant to section 468.436(2)(b)2.

Count II

74. The Department alleges Respondent violated rule 61E14-2.001(2)(c) by "failing to perform all [CAM] services required by

the licensee's contract to professional standards and to standards established by Section 468.4334(1), F.S."

75. The Department did not establish by clear and convincing evidence that Respondent failed to account for all Ocean Villa funds, or otherwise fail to discharge his duties loyally, skillfully, diligently; dealing honestly and fairly; and in good faith; with care and in full disclosure, to Ocean Villa.

76. Because the Department failed to prove Respondent violated 468.4334(1), the Department did not prove by clear and convincing evidence Respondent violated rule 61E14-2.001(2)(c).

77. Because the Department did not prove Respondent violated the rule, the Department did not establish grounds for disciplinary action against Respondent pursuant to 468.436(2)(b)2.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Business and Professional Regulation dismiss DBPR Case No. 2017-043696 against James Michael Rossi.

DONE AND ENTERED this 27th day of September, 2018, in
Tallahassee, Leon County, Florida.



SUZANNE VAN WYK
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Filed with the Clerk of the
Division of Administrative Hearings
this 27th day of September, 2018.

ENDNOTES

^{1/} Except as otherwise provided herein, all references to the Florida Statutes are to the 2015 version, which was in effect when the most recent alleged statutory violations occurred. Some violations are alleged to have occurred when the 2013 and 2014 version of the statutes were in effect, but there is no substantive difference between the 2013, 2014, and 2015 versions of sections: 468.436(2)(b)2. and 718.111(12)(a)11.a. Section 468.4334(1) was not promulgated until 2014 and cannot form the basis for discipline for alleged violations occurring prior to July 1, 2014.

^{2/} If counsel for the parties had taken as much time in professional communications with one another as they did preparing motions to compel and quash, and responses thereto, many of the discovery disputes could have been avoided, or at least resolved without the undersigned's intervention.

^{3/} This admission was made with one caveat: the Sam's Club receipt for umbrellas and bases dated May 12, 2015, was \$50 less than the amount reimbursed for that purchase. As explained by Ms. Warren, the receipt is insufficient documentation to support that reimbursement because it is less than the reimbursed amount.

Respondent testified, credibly, that the overpayment was an honest mistake--the receipt is for \$521.36 and he listed \$571.36 on the check stub. Respondent subsequently reimbursed Ocean Villa \$50 for the overpayment.

^{4/} T.192:6-10.

^{5/} Ms. Warren testified that the March 7, 2015 receipt was a sufficient record of the items purchased to justify reimbursement to Respondent. Ms. Warren was not asked to, and did not, identify what items were purchased based on the receipt. There is insufficient evidence in the record to find what specifically was purchased in addition to the envelopes.

^{6/} Check Nos. 1989 and 2043 are not included in this list because they were written prior to July 1, 2014, the date on which section 468.4334 took effect. Respondent cannot be disciplined for failing to comply with "professional standards" that were not in effect when those checks were written.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.