

Commissioners:
 JULIA L. JOHNSON, CHAIRMAN
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 JOE GARCIA
 E. LEON JACOBS, JR.



STEVE TRIBBLE, DIRECTOR
 DIVISION OF ADMINISTRATION
 (850) 413-6330

Public Service Commission

September 10, 1998

Mr. Bob Spooner
 Bureau of Special Programs
 Office of the Comptroller
 101 East Gaines Street
 Tallahassee, Florida 32399-0350

Dear Mr. Spooner:

The Public Service Commission has exercised reasonable efforts to collect regulatory assessment fees, penalty and interest, and fines from the utility referenced below. However, no response has been received, and we believe that further collection efforts would not be cost effective.

DOCKET NUMBER	UTILITY NAME	AMOUNT
930944-WS	Shady Oaks Mobile Modular Estates, Inc.	\$1,420.00

We respectfully submit the enclosed Delinquent Accounts Receivable Transmittal form, along with a memorandum from the Commission's Division of Legal Services and other supporting documentation. We request that, at your discretion, you either attempt further collection or grant this agency permission to write off the debt.

Sincerely,

 Steve Tribble

- WCK _____
- WFA _____
- WPP _____
- WAF _____
- WJU _____
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- WAG _____
- WEG _____
- WIN _____
- WPC _____
- WRH _____
- WSE _____
- WAS _____
- WTH _____

ST:jk
 Enclosures
 c: Division of Legal Services (Lila A. Jaber)
 Division of Records and Reporting ✓
 Division of Water and Wastewater (Betha, Rieger, Galloway)
 Division of Administration (Jackie Knight)

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FPSC-RECORDS/REPORTING



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: August 26, 1998
TO: Steve C. Tribble, Director, Division of Administration
FROM: Lila A. Jaber, Bureau Chief, Bureau of Water and Wastewater *LJA*
RE: Docket No. 900025-WU-SU - Application for Staff-Assisted Rate Case in Pasco County by Shady Oaks Mobile-Modular Estates, Inc.

Docket No. 930944-WS - Revocation by Florida Public Service Commission of Certificates Nos. 451-W and 382-S Issued to Shady Oaks Mobile Modular Estates, Inc., in Pasco County, Pursuant to Section 367.111(1), F.S.

On August 17, 1998, the Commission issued Final Order No. PSC-98-1100-FOF-WS, in which it ordered the release of escrow funds to the Shady Oaks Owners Association, Inc. (Owners Association) being serviced by Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility), acknowledged the exempt status of the Owners Association, and ordered the referral of unpaid penalties and interest to the Office of the Comptroller for permission to write off as uncollectible. The utility also owes \$1,420 in penalty and interest associated with regulatory assessment fees (RAFs) for September 1994 through June 1996. Due to the utility being in receivership, the collection of the penalties and interest associated with RAFs would not be cost effective.

The events leading to this determination are outlined below for your convenience:

1. Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. Pursuant to Order No. 15633, Certificates Nos. 451-W and 382-S were issued on February 6, 1986.
2. On November 4, 1991, Order No. 25296 was issued requiring the utility to, among other things, immediately place all funds necessary to install water meters for all of its customers in an escrow account. While the utility did install meters, the utility never complied with the other requirements of that order. As a result of the utility's noncompliance, by Order No. PSC-93-1733-FOF-WS, issued December 1, 1993, Shady Oaks' rates were reduced to reflect the removal of the pro forma plant not constructed and preventative maintenance not spent and required a refund. The escrow account remained under-funded and refunds were never made.
3. By Order No. PSC-94-0976-FOF-WS, issued August 11, 1994 in Docket No. 930944-WS, the Commission revoked Certificates Nos. 451-W and 382-S. They were revoked after the Commission's finding that the utility: 1) lacked the

technical ability to continue operating as a certificated utility; 2) had not complied with Sections 350.113 and 367.145, Florida Statutes and Rule 25-30.120, Florida Administrative Code (regulatory assessment fees); 3) misappropriated utility funds; 4) under-funded the escrow account established for improvements; and 5) demonstrated a willful and flagrant disregard of Chapter 367, Florida Statutes.

4. Immediately after the revocation hearing, Commission staff met with Pasco County to inform County officials that the utility's certificates were revoked and a receiver would need to be appointed by the Court pursuant to Section 367.165, Florida Statutes. Subsequently, Pasco County petitioned the Court and was appointed temporary receiver. Pasco County has operated the Shady Oaks systems from September 1, 1994 through May 26, 1998. The Owners Association was appointed receiver effective January 1, 1998, although the County continued providing service until May 26, 1998.
5. The Owners Association was responsible for installing the wastewater master meter in order to complete the transition of receivership. The Owners Association completed the installation of the master meter using its own funds at a cost of approximately \$11,000. There is also a remaining debt of approximately \$7,000 the utility owes the County for the meter itself. The County and Owners Association agreed that the payment for the meter will be made out of the proceeds of the sale of the utility.
6. Since the Owners Association has expended funds in excess of the amount in escrow on behalf of the utility and its customers, the Commission found the escrow funds should be released to the Owners Association as receiver of the utility.
7. The utility, with Pasco County as receiver, was regulated by this Commission until June 1996, when Section 367.031, Florida Statutes, was amended to make exemptions self-executing.
8. Shady Oaks with Pasco County as receiver, did not timely remit regulatory assessment fees for the September 1994 to June 1996 time period in accordance with Section 367.145, Florida Statutes. After the nonpayment of regulatory assessment fees was brought to our attention, Pasco County was contacted about the outstanding regulatory assessment fees. After Commission staff's conversations with Pasco County and a meeting with County staff, Pasco County provided a statement of annualized utility revenues by year from September 1994 through June 1996 so that the appropriate amount of regulatory assessment fees could be determined. By letter dated June 6, 1997, Pasco County submitted a

check in the amount of \$3,926.57 for outstanding regulatory assessment fees and requested a waiver of the penalty and interest.

9. Pasco County, on behalf of the utility, asserted that it considered itself exempt since the beginning of its receivership and that it did not file any annual reports, and had not paid any regulatory assessment fees as evidence of exemption. Further, Pasco County stated that it became the receiver of this utility at the request of the Commission and that the Commission never gave the County notice that it had to apply for an exemption.
10. The utility accumulated losses during the County's tenure and therefore lacked the funds to pay. Pasco County could not pay the penalties and interest out of the utility's funds and did not want to nor was required to use its own funds to pay the outstanding penalties and interest.
11. Noting that collection efforts would not be cost effective, the Commission ordered the outstanding penalty and interest associated with RAFs for the period of September 1994 through June 1996, be referred to the Comptroller's Office for permission to write off the account as uncollectible.

Please find the following attached hereto:

- a. Order No. PSC-98-1100-FOF-WS
- b. State of Florida Office of the Comptroller Bureau of Auditing Delinquent Accounts Receivable Transmittal

Shady Oak's mailing address is:

Shady Oaks Mobile-Modular Estates, Inc.
38616 Shady Oaks Drive
Zephyrhills, Florida 33540-6526

Pasco County's mailing address is:

Barbara L. Wilhite, Esquire
Chief Assistant County Attorney
West Pasco Government Center
7530 Little Road, Suite 340
New Port Richey, Florida 34654

Steve C. Tribble, Director
August 26, 1998
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Owners Association's mailing address is:

Shady Oaks Owners Association, Inc.
3651 Castle Drive
Zephyrhills, Florida 33540

In light of the foregoing, we submit this matter to your office to forward to the account to the Department of Banking and Finance, Comptroller's Office, for permission to write off the account at uncollectible.

CF/dr

cc: Division of Water and Wastewater (Bethea, Rieger, Galloway)
Division of Administration (Sewell)
Division of Records and Reporting

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