

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

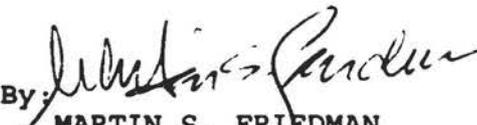
IN RE: Complaint of)
The Christian and Missionary)
Alliance Foundation, Inc., d/b/a)
Shell Point Village against) DOCKET NO. 970027-WS
Florida Cities Water Company)
regarding service availability)
charges.)

NOTICE OF FILING

The Christian and Missionary Alliance Foundation, Inc. d/b/a Shell Point Village ("Foundation"), by and through its undersigned attorneys, hereby notices the filing of the Settlement Agreement in the above-referenced docket.

Respectfully submitted on this 20th day of October, 1997, by:

ROSE, SUNDSTROM & BENTLEY, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
(850) 877-6555

By: 
MARTIN S. FRIEDMAN
For the Firm

shellpoint\filing.not

ACK _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to B. Kenneth Gatlin, Esquire, Gatlin, Schiefelbein & Cowdery, P.A., 1709-D Mahan Drive, Tallahassee, Florida 32308 and Tim Vacarro, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 this 20th day of October, 1997.


MARTIN S. FRIEDMAN

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SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 17th day of October, 1997, by and between the Christian and Missionary Alliance Foundation, Inc. d/b/a Shell Point Village ("Foundation") and Florida Cities Water Company ("FCWC").

WHEREAS, the Foundation owns and operates Shell Point Village in Lee County, Florida, which receives potable water service from FCWC; and

WHEREAS, the Foundation represents that: Shell Point Village is a continuing care retirement community located on a 75-acre island in the mouth of the Caloosahatchee River in Lee County, Florida; Shell Point Village provides all levels of care, including independent living, assisted living, and skilled nursing; there is a central kitchen and dining facility provided for assisted living, skilled nursing and independent living residents; there is also a medical center on site with four physicians employed by the Foundation; Shell Point Village also includes an administrative building, welcome center, maintenance building, conference center, marina, residents activities center, and social center; towels and linen are furnished and centrally laundered for all residents; most of the independent living apartment complexes have central laundry facilities for residents to do their personal laundry and there are not laundry facilities within the individual apartments; the residents, regardless of the level of care, pay an initial fee and a monthly maintenance fee; no separate charge is imposed on

residents for water service; all of the dwelling units are owned by the Foundation; Shell Point Village is built out and no additional residential development can occur under current zoning; and

WHEREAS, Water is delivered to Shell Point Village through one master water meter at the entry gate to Shell Point Village, and all internal distribution lines throughout the Village are owned and maintained by Shell Point Village. The Foundation does not use water purchased from FCWC for irrigation purposes as it purchases effluent from Lee County for that purpose; and

WHEREAS, a dispute has arisen between the Foundation and FCWC as to whether additional service availability charges, and allowance of funds prudently invested ("AFPI") charges are due to FCWC by the Foundation; and

WHEREAS, considering the time and expense of litigation, the parties desire to settle their differences.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, the Foundation and FCWC agree as follows:

1. The foregoing recitations are true and correct and incorporated herein by reference.

2. On September 6, 1978 the Florida Public Service Commission (FPSC) entered Order No. 8468 in Docket No. 770236-W. By Order No. 8468 the Commission ruled that the Foundation was required to pay FCWC \$52,500 in capacity charges for the 210 units in controversy. The \$52,500 has been paid to FCWC by the Foundation. By letter dated October 9, 1997 addressed to FCWC from the Foundation and

signed by Dennis Bayes, Vice President of Finance, Shell Point Village, the Foundation represents, and FCWC relies on such representation, that a net of 137 units have been added to Shell Point Village since the additions of the 210 units referenced in FPSC Order No. 8468 for which the service availability charge has been paid for 40 units leaving a net of 97 units for which the service availability charges have not been paid, and further, with the construction of the 137 units Shell Point Village is build out and no additional units will be placed into service under current zoning. The letter from the Foundation to FCWC dated October 9, 1997 and signed by Dennis Bayes, is attached hereto as Exhibit A and made a part hereof. There is \$47,587.15 owed to FCWC by the Foundation for the 97 units which shall be paid to FCWC within thirty (30) days of approval by the Florida Public Service Commission of this Settlement Agreement. The \$47,587.15 is for the payment of service availability and AFPI charges calculated as follows:

97 units at 172 gallons per day (gpd) = 16,684 gpd

16,684 gpd divided by 300 gpd/ERC = 55.61 ERCs.

55.61 ERCs (\$625.00+230.73 per ERC) = \$47,587.15

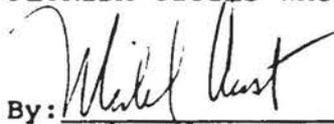
3. Based on the representations of Shell Point Village, the predominant water consumption use is for multi-family residential. Other uses traditionally classified as general service or commercial exist throughout the development and are a significant contributor to the total water consumed by Shell Point Village. FCWC has no similar development within its service area. It is

unlikely that a similar situation will ever exist again because if the property were developed today the internal infrastructure that serves Shell Point Village would be owned and maintained by FCWC eliminating the master meter at the entrance to the facility and inserting meters at individual buildings or groups of buildings. Shell Point Village is an anomalous and unique customer. Therefore, the parties believe that a combination of the commercial and multi-family tariffs would best suit the calculation of service availability and AFPI charges

4. Upon approval by the FPSC as set forth herein, this Settlement Agreement shall operate as a full and complete resolution regarding service availability and AFPI charges due to FCWC by the Foundation in connection with Shell Point Village as it has been developed as of the date of this Agreement.

5. This Settlement Agreement is subject to the approval of the FPSC without change. If the Settlement Agreement is not approved by the FPSC exactly as written, then this Settlement Agreement shall become null and void.

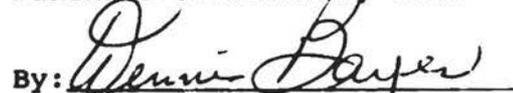
FLORIDA CITIES WATER COMPANY

By: 

Its: Vice President

(Corp. Seal)

THE CHRISTIAN AND MISSIONARY
ALLIANCE FOUNDATION, INC.

By: 

Its: V. P. FINANCE + ASST. TREAS

(Corp. Seal)



October 9, 1997

Florida Cities Water Company
c/o B. Kenneth Gatlin
1709-D Mahan Drive
Tallahassee, Florida 32308

Gentlemen:

Attached is a copy of our apartment statistics report as of July 31, 1977 showing our total units as of that date. The Junonia, Turban, and Lucina units are those involved in the last settlement. The other units are referred to as garden apartments and were in existence at the time of the settlement. I have attached the 1974 license for each of these buildings to prove their existence at that time. The unit counts can vary slightly as, from time to time, we may combine two adjacent smaller units. Below is my calculation of the charge I believe we owe.

Calculation of unit charge for Shell Point Village:

97 units at 172 gallons per day (gpd)	=	16,684 gpd
16,684 gpd divided by 300 gpd/ERC	=	55.61 ERC's
55.61 ERC's (\$625.00 + 230.73 per ERC)	=	\$47,587.15

If you have any questions, please give me a call.

Sincerely,

Dennis Bayes
Vice President of Finance
Shell Point Village

DB:jt

Enclosures

SHELL POINT VILLAGE
APARTMENT STATISTICS

DEPOSITS ON APARTMENTS

\$ 82,725 (17) - Garden Ap
\$ 178,239 (20) - North Com
\$ 7,000 (5) - Waiting L

Through JULY 31, 1977

	APARTMENTS					MONTHLY FEES		
	NUMBER	OCUPIED NUMBER	%	TOTAL RESIDENTS	RESIDENTS PER APT	AMOUNT	AVER. \$ PER RESIDENT	AVER. \$ APARTMENT
#100 Macoma	48	46	96%	66	1.4	\$13,955.30	\$ 211.44	\$ 293.1
#200 Tellidora	50	45	90	57	1.3	11,963.81	209.89	265.5
#300 Nautilus	43	39	91	52	1.3	11,465.90	220.50	294.0
#400 Royal Bonnet	48	44	92	59	1.3	13,107.10	222.15	297.8
#500 Periwinkle	50	48	96	61	1.3	13,750.57	225.42	286.4
#600 Coquina	50	49	98	62	1.3	14,041.59	226.48	286.5
#900 Sand Dollar	50	48	96	63	1.3	14,598.30	231.72	304.1
#1000 Cellana	54	52	96	62	1.2	14,193.88	228.93	272.9
#1100 Cameo	52	49	94	67	1.4	14,096.75	210.40	276.6
Sub Total	445	420	94%	549	1.3	121,173.20	220.72	288.5
E Junonia	63	24	38	39	1.6	11,443.00	293.41	476.7
N Turban	77	31	40	55	1.8	14,697.75	267.23	474.1
W Lucina	67	22	33	38	1.7	9,926.65	261.23	451.2
Sub Total	207	77	37%	132	1.7	36,067.40	273.24	468.4
TOTAL	652	497	76%	681	1.4	\$157,240.60	\$ 230.90	\$ 316.31

PERMANENT NURSING PAVILION

42
723

\$ 9,667.20 \$ 230.17
\$166,907.80 \$ 230.86

STATE OF FLORIDA DEPARTMENT OF BUSINESS REGULATION
DIVISION OF HOTELS AND RESTAURANTS TALLAHASSEE, FLORIDA 32304

AUDIT CONTROL NO. 94657

LICENSE

→ CHRISTIAN MISS ALLI FND
PELLIDORA COURT
FT MYERS RT 13 SHELL PT VILLAGE
FL 33908

LICENSE NUMBER

46 00362H 1 00050 00116

EXPIRATION DATE

LICENSE FEE

12/01/74

LATE FEE \$ 37.50
 .00

TOTAL 37.50

Anthony Ninos

ANTHONY NINOS DIRECTOR

DISPLAY IN A CONSPICUOUS PLACE
THIS LICENSE IS NOT TRANSFERABLE FROM PLACE OR INDIVIDUAL TO ANOTHER

94657

STATE OF FLORIDA DEPARTMENT OF BUSINESS REGULATION
DIVISION OF HOTELS AND RESTAURANTS TALLAHASSEE, FLORIDA 32304

AUDIT CONTROL NO. 94659

LICENSE

→ CHRISTIAN MISSIONARY AL
PERIWINKLE APTS
FT MYERS SHELL PT VILLAGE
FL 33908

LICENSE NUMBER

46 00365H 1 00050 00171

EXPIRATION DATE

LICENSE FEE

12/01/74

LATE FEE \$ 37.50
 .00

TOTAL 37.50

Anthony Ninos

ANTHONY NINOS, DIRECTOR

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THIS LICENSE IS NOT TRANSFERABLE FROM PLACE OR INDIVIDUAL TO ANOTHER

4659

LICENSE

LICENSE NUMBER

46 00487H 1 00052 00166

EXPIRATION DATE

LICENSE FEE

12/01/76

LATE FEE \$ 38.50
0.00

TOTAL 38.50

Anthony Ninos

ANTHONY NINOS DIRECTOR

→ CHRISTIAN MISS ALLI INC
CAMEO APTS RT 10 SHELL PT VILLAGE
FORT MYERS FL 33901

4694

DISPLAY IN A CONSPICUOUS PLACE
THIS LICENSE IS NOT TRANSFERABLE FROM PLACE OR INDIVIDUAL TO ANOTHER

LICENSE

LICENSE NUMBER

46 00345H 1 00050 00166

EXPIRATION DATE

LICENSE FEE

12/01/76

LATE FEE \$ 37.50
0.00

TOTAL 37.50

Anthony Ninos

ANTHONY NINOS DIRECTOR

→ CHRISTIAN MISS ALLI FN
MACORA APT COURT SHELL PT VILLA
FT MYERS FL 33901

94725

DISPLAY IN A CONSPICUOUS PLACE
THIS LICENSE IS NOT TRANSFERABLE FROM PLACE OR INDIVIDUAL TO ANOTHER

LICENSE

LICENSE NUMBER

46 00599H 1 00050 00171

EXPIRATION DATE

LICENSE FEE

12/01/74

LATE FEE \$ 37.50

TOTAL 37.50

Anthony Ninos

ANTHONY NINOS, DIRECTOR

→ CHRISTIAN MISSIONARY ALLIANCE
COQUINA APTS
FORT MYERS SHELL POINT VILLAGE
FL 33901

394746

DISPLAY IN A CONSPICUOUS PLACE
THIS LICENSE IS NOT TRANSFERABLE FROM PLACE OR INDIVIDUAL TO ANOTHER

LICENSE

LICENSE NUMBER

46 00753H 1 00050 00164

EXPIRATION DATE

LICENSE FEE

12/01/74

LATE FEE \$ 37.50

TOTAL 37.50

Anthony Ninos

ANTHONY NINOS, DIRECTOR

→ CHRISTIAN & MISSIONARY
ROYAL BONNET APTS
FT MYERS SHELL PT VILLG
FL 33901

94801

DISPLAY IN A CONSPICUOUS PLACE
THIS LICENSE IS NOT TRANSFERABLE FROM PLACE OR INDIVIDUAL TO ANOTHER

STATE OF FLORIDA DEPARTMENT OF BUSINESS REGULATION
DIVISION OF HOTELS AND RESTAURANTS TALLAHASSEE, FLORIDA 32304

AUDIT CONTROL NO. 94826

LICENSE

LICENSE NUMBER

46 00841H 1 00046 00116

EXPIRATION DATE

LICENSE FEE

12/01/74

LATE FEE \$ 34.50
 .00

TOTAL 34.50

CHRISTIAN & MISSION ARM
NAUTILUS APTS
RT 10 SHELL PT VILLAGE
FT MYERS FL 33901

Anthony Ninos

ANTHONY NINOS, DIRECTOR

DISPLAY IN A CONSPICUOUS PLACE
THIS LICENSE IS NOT TRANSFERABLE FROM PLACE OR INDIVIDUAL TO ANOTHER

STATE OF FLORIDA DEPARTMENT OF BUSINESS REGULATION
DIVISION OF HOTELS AND RESTAURANTS TALLAHASSEE, FLORIDA 32304

AUDIT CONTROL NO. 94913

LICENSE

LICENSE NUMBER

46 01144H 1 00050 00208

EXPIRATION DATE

LICENSE FEE

12/01/74

LATE FEE \$ 37.50
 .00

TOTAL 37.50

CHRISTIAN MISSIONARY ALLIANCE
SAND DOLLAR APTS
SHELL POINT VILLAGE
FORT MYERS FL 33901

Anthony Ninos

ANTHONY NINOS, DIRECTOR

DISPLAY IN A CONSPICUOUS PLACE
THIS LICENSE IS NOT TRANSFERABLE FROM PLACE OR INDIVIDUAL TO ANOTHER

STATE OF FLORIDA DEPARTMENT OF BUSINESS REGULATION
DIVISION OF HOTELS AND RESTAURANTS TALLAHASSEE, FLORIDA 32304

AUDIT CONTROL NO. 94914

LICENSE

LICENSE NUMBER

46 01145H 1 00054 00208

EXPIRATION DATE

LICENSE FEE

12/01/76
LATE FEE \$ 39.50
TOTAL \$ 39.50

Anthony Ninos

ANTHONY NINOS DIRECTOR

CHRISTIAN MISSIONARY ALLIANCE
CELCANA APTS
FORT MYERS SHELL POINT VILLAGE
FL 33901

94914

DISPLAY IN A CONSPICUOUS PLACE
THIS LICENSE IS NOT TRANSFERABLE FROM PLACE OR INDIVIDUAL TO ANOTHER