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## Association Ledgers and the “Balance Forward” – Avoid Opening Pandora’s Box

One of the major issues association lawyers face when collecting delinquent assessments is the dreaded “balance forward” on ledgers. The amounts due in those ledgers are a potential Pandora’s Box of problems. In order to collect delinquencies based on those ledgers, they must comply with law. The ledgers are required to contain amounts that can be identified as monies that the association can lien and sue to collect if unpaid.

The accounting records are the lifeblood of every corporation and must be properly kept, and associations are no exception. The Condominium Act and the Homeowners’ Association Act require that a ledger for each owner be kept for at least seven years. The specific provision on point from Chapter 720 reads as follows:

“All financial and accounting records must be maintained for a period of at least seven years. The financial and accounting records must include:

1. Accurate, itemized, and detailed records of all receipts and expenditures.
2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.”

The law could not be clearer -- these records must be kept. If not, there are potential civil penalties (and criminal charges under the Condominium Act) for failing to allow access or destroying records. For CAMs, improper record keeping is the basis for penalties under the Florida Administrative Code. Lawyers are debt collectors and under Florida and federal law, have civil liability for improperly attempting to collect debts.

Given all of this potential liability, it is surprising how often our office receives ledgers containing a “balance forward” to collect. When we see such entries, before proceeding with collections against an owner, we must stop and ask the client or CAM what those amounts consist of. If they cannot be explained, we go back to the previous custodian of records to get a breakdown of those amounts. If they still cannot be explained, they cannot be collected.

When an association transfers official records from one CAM to another, it is vital that the ledgers be checked for compliance with law. CAMs and Associations who keep what are essentially improper (potentially illegal) records should be asked to explain deficiencies as soon as possible. Doing so is sometimes the only way an association can have an outside party review the records for compliance. This is true whether the association is transitioning from self-managed to a CAM, or from CAM to CAM. At a minimum, the new custodian of records needs to write up the violation and the association should consider complaining to the appropriate authorities.

Ledgers must be kept as required by law. If amounts alleged to be due on the ledgers cannot be explained, they cannot be legally collected. Keep your association's accounting records properly, and Pandora's Box will stay closed.



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REPRESENTING COMMUNITY ASSOCIATIONS

**Our legal team has been representing Condos and HOAs throughout Florida since 1982.  
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