

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION**

**GLENN ACCIARD, HOWARD AMBERG,  
ANNE AMERICA, JOHN AMERICA,  
WILLIAM BACIGALUPO, JONATHAN  
BATES, CYNILLE BATES, PEGGY A.  
BEDWELL, IRMA FARMER, ROBERT  
FORSCUTT, KAREN FORSCUTT,  
BRUCE GHILONI, MITZI GHILONI,  
NOEMI HERNANDEZ, GEORGE  
HERNANDEZ, DANIEL A.  
HERSHBERGER, ASTOR HOSANG,  
WAYNE I. KACHER, RUTH KACHER,  
KENNETH KAPP, CATHERINE KAPP,  
DEBRA G. LAUBACH, FREDERICK C.  
LAUBACH, JR. PETER LEWIS, LYNDA  
LEWIS, DONALD L. LODAREK,  
LAUREN LODAREK, ANDREW COLIN  
LONG, DONALD LONG, NINA H. LONG,  
RICHARD MAREK, TARI LEE MAREK,  
THOMAS MCCANN, DEBORAH  
MCCANN, EILEEN MESSIER, JEFF  
MONTGOMERY, ELIZABETH  
MONTGOMERY, CURT R. NORD,  
JEANNETTE NORD, BETTY  
ROSENWEIG, BETTY ROSENWEIG,  
PATRICK SHEEHAN, RICHARD S.  
SHIFFLETT, CAROL A. SHIFFLETT,  
MERRITT LAWRENCE SILCOX,  
WILLIAM TORLUCCI, KATHLEEN  
TORLUCCI, JAMES E WOLFE, ROBERT  
WRIGHT, JOAN WRIGHT, MICHAEL  
LAMB, MARGARET LAMB, and  
URSULA FRITSCH,**

**Plaintiffs,**

**-vs-**

**Case No. 2:07-cv-476-FtM-99DNF**

**RUSSELL WHITNEY, JOHN KANE,  
WHITNEY EDUCATION GROUP, INC.,**

**GULFSTREAM DEVELOPMENT  
GROUP. LLC, GULFSTREAM REALTY  
& DEVELOPMENT, LLC, GULFSTREAM  
INVESTMENT GROUP, LLC, UNITED  
MORTGAGE CORPORATION, KEVIN  
CARAOTTA, DOUGLAS REALTY, INC.,  
BRIAN HAAG, KEVIN HAAG, DOUGLAS  
HAAG, PARADISE TITLE SERVICES,  
INC., THE CONSTRUCTION LOAN  
COMPANY, INC. GREENBRIAR REAL  
ESTATE HOLDINGS, INC, WEBSTER  
BANK, NA, NORLARCO CREDIT UNION,  
FIRST COMMUNITY BANK OF  
SOUTHWEST FLORIDA, VISION  
CAPITAL ENTERPRISES, INC, EMC  
MORTGAGE CORPORATION,  
NATIONAL CREDIT UNION  
ADMINISTRATION BOARD AS  
LIQUIDATING AGENT FOR HURON  
RIVER AREA CREDIT UNION,**

**Defendants.**

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## **REPORT AND RECOMMENDATION**

### **TO THE UNITED STATES DISTRICT COURT**

On February 20, 2009, the Court entered an Order (Doc. 399) requiring the Plaintiffs, Margaret Lamb, Michael Lamb, and Ursula Fritsch to file a written Notice with the Court indicating whether they are continuing to pursue their claims in this action or wish to voluntarily dismiss their claims. Margaret Lamb, Michael Lamb, and Ursula Fritsch failed to file the required written Notice. On March 17, 2009, the Court entered an Order to Show Cause requiring Margaret Lamb, Michael Lamb, and Ursula Fritsch to show cause why their claims should not be dismissed for failure to prosecute. Margaret Lamb, Michael Lamb, and Ursula Fritsch failed to respond to the Order to Show Cause. Local Rule 3.10(a) provides that “[w]henver it appears that any case is not being diligently prosecuted the Court

may, on motion of any party or on its own motion, enter an order to show cause why the case should not be dismissed, and if no satisfactory cause is shown, the case may be dismissed by the Court for want of prosecution.” Margaret Lamb, Michael Lamb, and Ursula Fritsch have failed to prosecute their claims, and failed to comply with Orders of the Court. Therefore, the Court will recommend that Margaret Lamb, Michael Lamb, and Ursula Fritsch be dismissed from this action.

**IT IS RESPECTFULLY RECOMMENDED:**

That Margaret Lamb, Michael Lamb and Ursula Fritsch be dismissed from this action.

Failure to file written objections to the proposed findings and recommendations contained in this report within ten (10) days from the date of its filing shall bar an aggrieved party from attacking the factual findings on appeal.

Respectfully recommended in Chambers in Ft. Myers, Florida this 31st day of March, 2009.

  
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DOUGLAS N. FRAZIER  
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record