

Ken Lawson, Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
January 14 and 15, 2014
General Meeting**

Chair Roger Enzor, called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, Florida, on this 14th day of January, 2014.

The following Commission members were in attendance: Chair Roger Enzor, Vice-Chair Poul Hornsleth, Claude “Chip” Boring, III, Elias Chotas, Dick Fryer and Darla Furst. Commissioner Josh Podolsky was excused and not in attendance. Mr. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Chair Enzor welcomed newly appointed Commissioners Dick Fryer and Elias Chotas.

Department and Division staff present at the meeting: Juana Watkins, Director; Denise Johnson, Deputy Director; Patrick Cunningham, Chief Attorney; Sean Anderson, Christine Arzillo, Daniel Brackett, Assistant General Counsels; Daniel David, Josh Kendrick and Katie Sabo, Assistant General Counsels appeared via video conference; Sara Kimmig, Bureau Chief of Enforcement; Jenny Schwartz, Assistant General Counsel; Jocelyn Pomales, Operation Management Consultant II; Johanne Knudson, Regulatory Specialist III; Susan Bailey, Administrative Assistant II; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court services.

Approval of the Minutes

Commissioner Boring moved; seconded by Commissioner Fryer to approve the Minutes of the December 17 and 18, 2013, General Meeting, as written. The motion passed without dissent.

Reports

Unlicensed Activity Report

Bureau Chief Kimmig presented the Unlicensed Activity Report and addressed questions from the Commission.

Report Regarding Enforcement Trends and Escrow Audits

Bureau Chief Kimmig presented the report regarding Complaint Trends and Escrow Audit Summary. Ms. Kimmig addressed questions and comments from the Commission.

Monthly Exam Performance Summary Report

Deputy Director Johnson presented the monthly Exam Performance Summary Report. Ms. Johnson addressed additional questions and comments from the Commission.

Report Regarding Application and License Count Reports

Ms. Pomales presented the License Count Report and addressed questions and comments from the Commission. Ms. Pomales presented the Application Count Report and addressed questions and comments from the Commission.

Report Regarding Legal Case Activity

Chief Attorney Cunningham presented the monthly report regarding legal case activity and addressed comments and questions from the Commission. Director Watkins also addressed questions and comments from the Commission.

Legal Agenda Schedule

Escrow Disbursement Orders

Assistant General Counsel Al Cheneler presented 28 Escrow Disbursement Orders and 4 Orders for the Commission's consideration. Mr. Cheneler informed the Commissioners that Tab V, Case No. 2013046402 was settled. Vice-Chair Hornsleth moved to accept 27 Escrow Disbursement Orders and 4 Orders. Commissioner Furst seconded the motion. The motion passed without dissent.

Recovery Fund Cases

Tab A – Venessa Calver and Linda Stewart v. Gregory Don Christner, DBPR Case No. 2009012226

Case withdrawn.

Tab B – Venessa Calver and Linda Stewart v. W. Russel Christner, Jr., DBPR Case No. 2009012224

Assistant General Counsel Arzillo presented this matter to the Commission. Neither the Claimant nor the Licensee was present. Ms. Arzillo advised that the Claimant does not qualify statutorily to receive payment from the recovery fund and recommended the Commission deny the request. The Commission considered the facts and circumstances. Commissioner Fryer moved to approve the order denying the claim in the amount. Vice-Chair Hornsleth seconded the motion. The motion passed without dissent.

Legal Appearance Docket

Tab O – Henrietta Marie Suskevich, BK 623619, Case No. 2011035967 – Respondent's Request for an Informal Hearing

Respondent was present and was represented by Steven Johnson, Esquire, also present. No current members were recused due to participation on the probable cause panel.

Mr. Kendrick represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Vice-Chair Hornsleth moved, seconded by

Commissioner Fryer to find the Respondent guilty of Counts II and III as charged in the Administrative Complaint and dismiss Counts I and IV; the motion passed without dissent. Vice-Chair Hornsleth moved, seconded by Commissioner Fryer; motion passed without dissent to impose the following sanctions:

Action taken: Investigative costs; Respondent and Petitioner agree that licensure authority is voided for all broker licenses except license number 62319 which will be reduced to a broker sales associate. **Violation(s):** Section 475.42(1)(e), Florida Statutes, (2010), through a violation of Rule 61J2-14.012(1), Florida Administrative Code, when she failed to keep and provide an accurate account of each deposit transaction and each separate business account for Golf; Section 475.42(1)(e), Florida Statutes, (2010), through a violation of Rule 61J2-14.012(3), Florida Administrative Code, when she failed to reconcile the Golf accounts and disclose the cause(s) of the returned check(s) and corrective action taken.

Tab H – Fred William Lampert, III, SL 3104090, Case No. 2012035771 – Settlement Stipulation

Respondent was present and was represented by James Harwood, also present. Chair Enzor was recused due to participation on the probable cause panel.

Mr. David represented the department and presented the case to the Commission. Mr. David stated that the parties have entered into an ore tenus stipulated settlement. The Commission entered into discussion. Respondent neither admits nor denies the factual allegations in the Administrative Complaint. Commissioner Fryer moved; seconded by Commissioner Boring to accept the Stipulated Settlement. The motion passed without dissent.

Penalty: Probation for 2 years during which time Respondent shall not apply for a broker license. Respondent may petition for early termination of probation upon proof of satisfactory completion; \$1,000.00 fine; investigative costs; must attend 2 complete FREC general meetings; 30 hours of continuing education. **Violation(s):** Section 475.42(1)(d), Florida Statutes, by receiving an escrow deposit of \$5,000 and failing to deliver that check to his broker and by receiving an escrow deposit of \$5,000 that was not in the name of his broker; Section 475.42(1)(a), Florida Statutes, by operating as a broker by collecting a escrow deposit in a real estate transaction while licensed as a sales associate; Section 475.42(1)(b), Florida Statutes, by operating as a broker by collecting a escrow deposit in a real estate transaction while employed as a sales associate for JMAKAA Corporation; Section 455.227(1)(j), Florida Statutes, when Respondent admitted he operated Elite Property Management which was an unlicensed corporation and by accepting and distributing escrow funds on behalf of Elite Property Management during a real estate transaction.

Action taken: Settlement Stipulation accepted.

Tab Q – Sheila F. Whitehead, SL 3120377, Case No. 2012046816 – Respondent’s Request for an Informal Hearing

Respondent was present and was represented by James Harwood, also present. No current members were recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Fryer moved, seconded by Commissioner Chotas; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Fryer moved, seconded by Commissioner Furst; motion passed without dissent to impose the following sanctions:

Action taken: \$1,000.00 fine; investigative costs; must attend 1 complete FREC general meeting; probation for 12 months; 3-hour ethics course. **Violation(s):** Section 475.25(1)(f), Florida Statutes, by entering a plea of no contest to Fraud-Misrep-Fail to Disclose Fact Public Aid Over \$200.

Tab A – Theresia Marie Helton, BK 3077530 and 3248280, Case No. 2011050921 – Recommended Order

Respondent was not present; Respondent was represented by Daniel Villazon, Esquire, present. Chair Enzor was recused due to participation on the probable cause panel.

Ms. Arzillo represented the Department and presented the case to the Commission. Mr. Villazon requested a continuance on behalf of Respondent. Commissioner Furst moved; seconded by Commissioner Fryer to grant a continuance until February 18, 2014; motion passed without dissent.

Action Taken: Case continued.

Tab Z – Denise Marie Hardy, BK 3080346, Case No. 2011039798 – Settlement Stipulation

Respondent was present; Respondent was represented by Daniel Villazon, Esquire, also present. Chair Enzor was recused due to participation on the probable cause panel.

Mr. Kendrick represented the department and presented the case to the Commission. The Commission entered into discussion. Respondent admits the factual allegations in the Administrative Complaint. Commissioner Furst moved; seconded by Commissioner Fryer to accept the Stipulated Settlement. The motion passed without dissent.

Penalty: \$3,000.00 fine; investigative costs; must attend 2 complete FREC general meeting; must complete a 4-hour escrow management course. **Violation(s):** Section 475.25(1)(b), Florida Statutes, when Respondent acted with culpable negligence in her duties as a real estate broker; Section 475.25(1)(e), Florida Statutes, by violating Rule 61J2-14.012, Florida Administrative Code, when Respondent failed to Prepare monthly reconciliation statements comparing the total liability with the reconciled bank balance of Fusilier Realty's Security Deposit account; and/or Describe or explain the trust account shortages or take corrective action in reference to shortages in Fusilier Realty's escrow accounts; Section 475.25(1)(e), Florida Statutes, by violating Rule 61J2-14.010(1), Florida Administrative Code, when Respondent, the qualifying broker for Fusilier Realty, was not a signatory on the Security Deposit escrow account.

Action taken: Settlement Stipulation accepted.

Tab N – Seth M. Sklarey, BK 81489, Case No. 2012046331 – Petitioner's Motion for Waiver Hearing and Enter a Final Order

Respondent was present and was not represented by counsel. Vice-Chair Hornsleth was recused due to participation on the probable cause panel.

Ms. Sabo represented the department and presented the case to the Commission. Ms. Sabo stated that the Respondent is requesting an Informal Hearing. The Commission granted the informal hearing and entered into discussion. Commissioner Furst moved; seconded by Commissioner Fryer; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Furst moved, seconded by Commissioner Fryer; motion passed without dissent to impose the following sanctions:

Action Taken: Investigative costs; attend 2 complete FREC General meetings; probation for 1 year.
Violation(s): Section 475.25(1)(s) when the Florida Construction Industry Licensing Board revoked Respondent's licenses CGC 024684, CGC 1124684, and CCC042784 on November 1, 2011 .

Tab B – Dennis Mauricio Meraz, BK 694234, Case No. 2012001765 – Recommended Order with Respondent's Exceptions

Respondent was present; Respondent was represented by Nancy Campiglia, Esquire, also present. Chair Enzor was recused due to participation on the probable cause panel.

Mr. Brackett represented the Department and presented the case to the Commission. Ms. Campiglia filed Exceptions to the Recommended Order. Mr. Brackett filed a Response to the Exceptions. The Commission entered into discussion. The Commission unanimously denied Exceptions 1 through 14. Exception 15: Commissioner Boring moved; seconded by Commissioner Fryer to partially grant Exception 15 and strike the first sentence of paragraph 26 of the Recommend Order; the motion passed 4 to 1. The Commission unanimously denied Exceptions 16 through 18.

Commissioner Chotas moved, seconded by Commissioner Furst; the motion passed without dissent to adopt the Findings of Fact modifying paragraph 14. Commissioner Chotas moved; seconded by Commissioner Boring; the motion passed 3 to 2 to adopt the Conclusions of Law with exception to strike the first sentence of paragraph 26. Commissioner Fryer moved; Commissioner Boring seconded; motion passed without dissent to strike Count IV of the Administrative Complaint accepting Counts II and III. Commissioner Fryer moved, seconded by Commissioner Boring; motion passed 4 to 1 to adopt the Administrative Law Judge's findings of fact and conclusions of law and to modify the penalty imposing the following sanctions:

Penalty imposed: Suspension for 5 years; \$2,000.00 fine; investigative costs. **Violation:** Section 475.25(1)(k), Florida Statutes, by failing to immediately deposit Mansour's security deposit to Advanced International Realty's into an escrow or trust account; Section 475.25(1)(k), Florida Statutes, by admitting he does not supervise the daily operations of Advanced International Realty, Inc., which include direct, control, or manage his employee.

Tab AE – Simone Marie Baillergeon, BK 555014, Case No. 2013005181 – Respondent's Request for an Informal Hearing

Respondent was present; Respondent was represented by Nancy Campiglia, Esquire, also present. Commissioner Hornsleth was recused due to participation on the probable cause panel.

Mr. Anderson represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Fryer moved, seconded by Commissioner Furst; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Fryer moved, seconded by Commissioner Furst; motion passed without dissent to impose the following sanctions:

Action taken: Revocation, investigative costs. **Violation(s):** Section 475.25(1)(f), Florida Statutes (2012), when Respondent pled guilty to Grand Theft Second Degree.

Tab AD – Simone Marie Baillergeon, BK 555014, Case No. 2012024229 – Respondent's Request for an Informal Hearing

Case withdrawn.

Agenda A, Tab D; Agenda B, Tab A – Michael Joseph Chadwick, SL 3207413, Case No. 2013022808 – Respondent’s Request for an Informal Hearing

Respondent was present and was not represented by counsel. Commissioner Hornsleth was recused due to participation on the probable cause panel.

Mr. David represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Furst moved, seconded by Commissioner Fryer; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Furst moved, seconded by Commissioner Fryer; motion passed without dissent to impose the following sanctions:

Action taken: Investigative costs; must attend 2 complete FREC general meetings; probation for 1 year. **Violation(s):** Section 475.25(1)(e), Florida Statutes, by failing to timely comply with the Final Order, a lawful order issued under the provisions of Chapter 455 or 475, Florida Statutes.

Agenda A, Tab J; Agenda B, Tab C – Olman Jean Mentor, SL 3155254, Case No. 2011048803 – Respondent’s Request for an Informal Hearing

Respondent was present and was not represented by counsel. Commissioner Podolsky served on the probable cause panel. Commissioner Podolsky was excused and not present.

Mr. David represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Hornsleth moved, seconded by Commissioner Boring; to dismiss the Administrative Complaint; the motion passed 5 to 1.

Action taken: Case dismissed.

Tab AA – Justin Kirk Jones, SL 577538, Case No. 2012032098 – Settlement Stipulation

Respondent was present and was not represented by counsel. No current members were recused due to participation on the probable cause panel.

Ms. Arzillo represented the department and presented the case to the Commission. The Commission entered into discussion. Respondent neither admits nor denies the factual allegations in the Administrative Complaint. Commissioner Furst moved; seconded by Commissioner Boring to accept the Stipulated Settlement. The motion passed 4 to 2.

Penalty: \$500.00 fine; investigative costs. **Violation(s):** Section 475.25(1)(f), Florida Statutes (2012), when Respondent, in the Common Pleas Court of Miami County, Ohio, plead guilty to crimes involving moral turpitude or dishonest dealing.

Action taken: Settlement Stipulation accepted.

Tab C – Eric Brinkerhoff, BK 338760, Case No. 2013022644 – Respondent’s Request for an Informal Hearing

Respondent was present and was not represented by counsel. Commissioner Boring was recused due to participation on the probable cause panel.

Ms. Arzillo represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Furst moved, seconded by Commissioner Chotas; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Furst moved, seconded by Commissioner Fryer; motion passed without dissent to impose the following sanctions:

Action taken: Must complete a 4-hour escrow management course; must attend 1 complete FREC general meeting; probation for 6 months. **Violation(s):** Section 475.25(1)(k), Florida Statutes (2012), when Respondent failed to immediately place escrow funds entrusted to him by persons dealing with him as a broker into escrow with a bank doing business in the State; Rule 61J2-14.010(1), Florida Administrative Code (2012), when Respondent received escrow funds and failed to immediately place said funds into escrow with a bank; Rule 61J2-14.012(1), Florida Administrative Code (2012), when Respondent failed to keep an accurate account of each deposit transaction and each separate bank account wherein funds were deposited; Rule 61J2-14.012(2), Florida Administrative Code (2012), when Respondent failed to make written statements comparing his total liabilities with the reconciled bank balances for Corporation's bank accounts.

Tab K – Stephen Moltane, BK 180115, Case No. 2013022665 – Respondent's Request for an Informal Hearing

Respondent was present and was not represented by counsel. Commissioner Boring was recused due to participation on the probable cause panel.

Ms. Arzillo represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Vice-Chair Hornsleth moved, seconded by Commissioner Fryer; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Vice-Chair Hornsleth moved, seconded by Commissioner Fryer; motion passed without dissent to impose the following sanctions:

Action taken: Probation for 6 months; must attend 1 complete FREC general meeting. **Violation(s):** Section 475.25(1)(k), Florida Statutes (2012), when Respondent failed to immediately place escrow funds entrusted to him by persons dealing with him as a broker into escrow with a bank doing business in the State; Section 475.25(1)(k), Florida Statutes (2012), by receiving escrow funds and failing to immediately place said funds in Corporation's escrow account resulting in a shortage in Corporation's escrow accounts; Rule 61J2-14.012(1), Florida Administrative Code (2012), when Respondent failed to keep an accurate account of each deposit transaction and each separate bank account wherein funds were deposited; Rule 61J2-14.012(2), Florida Administrative Code (2012), when Respondent failed to make written statements comparing his total liabilities with the reconciled bank balances for Corporation's bank accounts.

Tab S – Clifford L. Esterson, SL 25322, Case No. 2012029495 – Voluntary Relinquishment of License

Respondent was present and was not represented by counsel. There was no probable cause panel.

Mr. David represented the department and presented the case to the Commission. The Respondent requested to withdraw the Voluntary Relinquishment Agreement. The Commission entered into discussion. Vice-Chair Hornsleth moved, seconded by Commissioner Fryer to grant Respondent's request for withdrawal. The motion passed without dissent.

Action taken: Voluntary Relinquishment of License withdrawn.

Tab G and Tab T – Marisela Gamez, BK 3017470, Case Nos. 2012032889 and 2012006975 – Voluntary Relinquishment of License for Permanent Revocation

Respondent was not present; Respondent was represented by Scott Saul, Esquire, not present. There was no probable cause panel.

Ms. Arzillo represented the department and presented the cases to the Commission. The Commission entered into discussion. Commissioner Furst moved, seconded by Commissioner Hornsleth to accept the Settlement Agreement to Relinquish License for Permanent Revocation. The motion passed without dissent.

Action taken: Accepted Voluntary Relinquishment of License for Permanent Revocation.

Tab R – Sam Edwin Whittaker, BL 3019008, Case No. 2013027950 – Voluntary Relinquishment of License for Permanent Revocation

Respondent was not present and was not represented by counsel. There was no probable cause panel.

Mr. Anderson represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Furst moved, seconded by Vice-Chair Hornsleth to accept the Settlement Agreement to Relinquish License for Permanent Revocation. The motion passed without dissent.

Action taken: Accepted Voluntary Relinquishment of License for Permanent Revocation.

Tabs U, V, W – Bradley Joe Lear, BK 3058895, Case Nos. 2013028883, 2013030259, 2013023782 – Voluntary Relinquishment of License for Permanent Revocation

Respondent was not present and was not represented by counsel. There was no probable cause panel.

Mr. David represented the department and presented the cases to the Commission. The Commission entered into discussion. Commissioner Furst moved, seconded by Vice-Chair Hornsleth to accept the Settlement Agreement to Relinquish License for Permanent Revocation. The motion passed without dissent.

Action taken: Accepted Voluntary Relinquishment of License for Permanent Revocation.

Tab E – Stacy Leann DeSalvo, BK 3031744, Case No. 2013022810 – Respondent’s Request for an Informal Hearing

Respondent was not present and was not represented by counsel. Commissioner Boring was recused due to participation on the probable cause panel.

Mr. David represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Furst moved, seconded by Commissioner Fryer; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Furst moved, seconded by Commissioner Fryer; motion passed without dissent to impose the following sanctions:

Action taken: Revocation, Investigative costs. **Violation(s):** Section 475.25(1)(e), Florida Statutes, by failing to comply with the Final Order, a lawful order issued under the provisions of Chapter 455 or 475, Florida Statutes.

Tab F – Barbara M. Diaz, BK 3147709, Case No. 2012029008 – Respondent’s Request for an Informal Hearing

Case withdrawn.

Tab L – Robert Edward Mulready, SL 697456, Case No. 2013025017 – Respondent’s Request for an Informal Hearing

Case withdrawn.

Tab M – Lisa Charlene Sherbine, SL 599955, Case No. 2013014085 – Respondent’s Request for an Informal Hearing

Respondent was not present and was not represented by counsel. Commissioner Boring was recused due to participation on the probable cause panel.

Mr. David represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Fryer moved, seconded by Commissioner Furst; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Fryer moved, seconded by Commissioner Furst; motion passed without dissent to impose the following sanctions:

Action taken: Revocation, investigative costs. **Violation(s):** Section 475.25(1)(f), Florida Statutes, when Respondent entered a plea of nolo contendere to Scheme to Defraud and Forgery of a Check; Section 475.25(1)(p), Florida Statutes, when Respondent failed to inform the Commission in writing within 30 days after pleading nolo contendere pled guilty to Scheme to Defraud and Forgery of a Check.

Agenda B, Tab B; Agenda A, Tab I– Graciela Lozano, SL 3125250, Case No. 2013006561 – Respondent’s Request for an Informal Hearing

Respondent was not present; Respondent was represented by Richard Fowler, Esquire, not present. Chair Enzor was recused due to participation on the probable cause panel.

Ms. Sabo represented the department and presented the case to the Commission. Mr. Fowler requested a continuance. The Commission granted the informal hearing and entered into discussion. Commissioner Furst moved; seconded by Commissioner Boring to grant a continuance until February 18, 2014; motion passed without dissent.

Action Taken: Case continued.

Tab P – Paul E. Toppino, BK 3007351, Case No. 2013011880 – Respondent’s Request for an Informal Hearing

Respondent was not present; Respondent was represented by Richard Fowler, Esquire, not present. Chair Enzor was recused due to participation on the probable cause panel.

Ms. Sabo represented the department and presented the case to the Commission. Mr. Fowler requested a continuance. The Commission entered into discussion. Commissioner Furst moved; seconded by Commissioner Fryer to grant a continuance until February 18, 2014; motion passed without dissent.

Action Taken: Case continued.

Tab X– Gerardo Enrique Wilhelm, SL 3238138, Case No. 2011039786 – Respondent’s Request for Waiver Hearing

Respondent was not present and was not represented by counsel. No current members were recused due to participation on the probable cause panel.

Mr. Kendrick represented the department and presented the case to the Commission. The Commission granted the waiver hearing and entered into discussion. Commissioner Furst moved; seconded by Vice-Chair Hornsleth; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Furst moved, seconded by Vice-Chair Hornsleth; motion passed without dissent to impose the following sanctions:

Action Taken: Revocation, investigative costs. **Violation(s):** Section 475.25(1)(f), Florida Statutes (2011), when Respondent plead guilty to Mail Fraud, Conspiracy to Commit Arson, and Check Fraud.

Tab Y – Christian Oliver Cope, SL 3227245, Case No. 2013023496 – Settlement Stipulation

Respondent was not present and was not represented by counsel. Commissioner Boring was recused due to participation on the probable cause panel.

Ms. Arzillo represented the department and presented the case to the Commission. The Commission entered into discussion. Respondent neither admits nor denies the factual allegations in the Administrative Complaint. Vice-Chair Hornsleth moved; seconded by Commissioner Furst to accept the Stipulated Settlement. The motion passed without dissent.

Penalty: \$500.00 fine; investigative costs. **Violation(s):** Section 475.25(1)(f), Florida Statutes (2012), when Respondent plead nolo contendere to a crime of moral turpitude in a Circuit Court.

Action taken: Settlement Stipulation accepted.

Tab AB – Marshall Neil Kanner, SL 599478, Case No. 2013006297 – Settlement Stipulation

Respondent was not present and was not represented by counsel. No current members were recused due to participation on the probable cause panel.

Ms. Arzillo represented the department and presented the case to the Commission. The Commission entered into discussion. Respondent neither admits nor denies the factual allegations in the Administrative Complaint. Petitioner agrees to drop Count II of the Administrative Complaint. Vice-Chair Hornsleth moved; seconded by Commissioner Furst to accept the Stipulated Settlement. The motion passed without dissent.

Penalty: \$250.00 fine; investigative costs; must attend 1 complete FREC general meeting. **Violation(s):** Section 475.25(1)(e), Florida Statutes (2011), when Respondent failed to comply with a lawful order issued under the provisions of Chapters 475 or 455, Florida Statutes.

Action taken: Settlement Stipulation accepted.

Tab AC – Richard R. Page, BK 3004279, Case No. 2012040351 – Settlement Stipulation

Respondent was not present; Respondent was represented by Steven Lulich, Esq., not present. No current members were recused due to participation on the probable cause panel.

Mr. David represented the department and presented the case to the Commission. The Commission entered into discussion. Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to dismiss the Administrative Complaint. The motion passed without dissent.

Action taken: Administrative Complaint dismissed.

Tab AF – Internet Marketing Realty, Inc., CQ 1005629, Case No. 2013006299 – Petitioner’s Motion for Waiver Hearing and Enter a Final Order

Respondent was not present and was not represented by counsel. Commissioner Boring was recused due to participation on the probable cause panel.

Mr. Brackett represented the department and presented the case to the Commission. The Commission granted the waiver hearing and entered into discussion. Vice-Chair Hornsleth moved; seconded by Commissioner Furst; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Vice-Chair Hornsleth moved, seconded by Commissioner Furst; motion passed without dissent to impose the following sanctions:

Action Taken: \$500.00 fine, investigative costs. **Violation(s):** Section 475.25(1)(e), Florida Statutes, when Respondent failed to comply with a lawful order issued under the provisions of Chapters 475 or 455, Florida Statutes.

Tab AG – Robert J. Walsh, SL 3122610, Case No. 2013015534 – Petitioner’s Motion for Waiver Hearing and Enter a Final Order

Case withdrawn.

Tab AH – Patricia H. Wilson, BK 306636, Case No. 2012040412 – Petitioner’s Motion for Waiver Hearing and Enter a Final Order

Respondent was not present and was not represented by counsel. Vice-Chair Hornsleth was recused due to participation on the probable cause panel.

Mr. Anderson represented the department and presented the case to the Commission. The Commission granted the waiver hearing and entered into discussion. Commissioner Furst moved; seconded by Commissioner Fryer; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Furst moved, seconded by Commissioner Fryer; motion passed without dissent to impose the following sanctions:

Action Taken: Revocation; investigative costs. **Violation(s):** Rule 61J2-14.012(2) by failing to reconcile her trust account monthly.

General Business continued

General Discussion

Mixed Delivery Method Relating to Continuing Education

Director Watkins presented communication from Melissa Wilson of McKissock requesting that the Commission clarify the delivery methods available to all providers relating to continuing education. Ms. Georgia McEwen of McKissock appeared on behalf of Ms. Wilson and McKissock and explained that they are requesting the Commission establish a clear and transparent policy applied across the board to all education providers. The Commission entered into discussion. The Commission received a comment from Lori Rodgers of Bert Rodgers and Linda Crawford of Dearborn Real Estate Education. Ms. Rodgers stated that she concurs with the motion. Ms. Crawford agrees that it is important for fair competition for everyone to have equal information and the same opportunities across the board. Ms. Crawford suggested that the Department update the application form. Commissioner Fryer moved that the FREC consider correspondence courses for CE as encompassed in the definition of distance learning and that e-grading be permissible; seconded by Commissioner Boring; the motion passed without dissent.

Public Comments

The Commission offered but did not receive any comments from the members of the audience.

Recess

There being no further business and no objection, the Chair recessed the meeting at approximately 5:05 p.m. until 8:30 a.m. tomorrow.

January 15, 2014

Chair Roger Enzor reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, on this 15th day of January, 2014.

The following Commission members were in attendance: Chair Roger Enzor, Vice-Chair Poul Hornsleth, Claude "Chip" Boring, III, Elias Chotas, Dick Fryer and Darla Furst. Commissioner Josh Podolsky was excused and not in attendance. Mr. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Department and Division staff present at the meeting: Juana Watkins, Director; Denise Johnson, Deputy Director; Patrick Cunningham, Chief Attorney; Jenny Schwartz, Assistant General Counsel; Jocelyn Pomales, Operations Management Consultant II; Jeannie Adkinson, Regulatory Specialist III; Johanne Knudson, Regulatory Specialist III; Susan Bailey, Administrative Assistant II; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813, provided court reporter services.

Summary of Applicants

OMC II Jocelyn Pomales presented 44 Summary of Applicants requesting to sit for the real estate examination.

Tab AD – Khoi D. Nguyen; was not present and was represented by Sarah Gulati, Esquire, present – Ms. Gulati withdrew the application on behalf of the applicant.

Tab A – Peter Kanevsky, was not present and was represented by James Harwood, Esquire, present – Commissioner Furst moved; seconded by Vice-Chair Hornsleth to approve the application for sales associate; the motion passed without dissent.

Tab B – Norman B. Kluge, was not present and was represented by James Harwood, Esquire, present – Commissioner Hornsleth moved; seconded by Commissioner Furst to approve the application for sales associate; the motion passed without dissent.

Tab C – Mario F. Restrepo, was not present and was represented by James Harwood, Esquire, present – Mr. Harwood withdrew the application on behalf of the applicant.

Tab M – Rolan Colon was not present and was represented by James Harwood, Esquire, present – Mr. Harwood requested a continuance until February 2014. Commissioner Furst moved; seconded by Commissioner Boring to grant a continuance until February 19, 2014; motion passed without dissent.

Tab Y – Oscar M. Martinez, was not present and was represented by James Harwood, Esquire, present – Mr. Harwood requested a continuance until February 2014. Commissioner Furst moved; seconded by Commissioner Boring to grant a continuance until February 19, 2014; motion passed without dissent.

Tab D – Alonderay Abner Johnson, present – Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve the application for sales associate; the motion passed without dissent.

Tab F – Guy D. Blank, present – Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve the application for sales associate; the motion passed without dissent.

Tab H – Bridd Bone – present – Applicant withdrew the application and waived the 90-day requirement.

Tab J – Robert C. Caro – present – Commissioner Furst moved; seconded by Commissioner Fryer to approve the application for sales associate; the motion passed without dissent.

Tab K – Jose Abel Cintron – present – Commissioner Furst moved; seconded by Vice-Chair Hornsleth to approve the application for sales associate; the motion passed without dissent.

Tab O – Daniel B. Derringer, Jr. – present – Commissioner Furst moved; seconded by Commissioner Fryer to approve the application for broker; the motion passed without dissent.

Tab S – Giancarlo R. Gonzalez – present – Commissioner Furst moved; seconded by Commissioner Fryer to approve the application for sales associate; the motion passed without dissent.

Tab AQ – Evan Wilson – present – Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve the application for sales associate; the motion passed without dissent.

Tab T – Brendan Clark Griffin – present – Commissioner Fryer moved; seconded by Commissioner Furst to approve the application for sales associate; the motion passed without dissent.

Tab V – Loren Terry Jaszcz – present – Vice-Chair Hornsleth moved; seconded by Commissioner Furst to approve the application for sales associate; the motion passed without dissent.

Tab X – Charles B. Manry – present – Commissioner Furst moved; seconded by Commissioner Fryer to approve the application for broker; the motion passed without dissent.

Tab AA – Maria A. Moises – present – Vice-Chair Hornsleth moved; seconded by Commissioner Chotas to approve the application for broker; the motion passed without dissent.

Tab AB – David M. Morris – present – Commissioner Furst moved; seconded by Commissioner Boring to approve the application for sales associate; the motion passed 4 to 2.

Tab AC – Jeffrey P. Newman – present – Commissioner Fryer moved; seconded by Commissioner Furst to approve the application for sales associate; the motion passed without dissent.

Tab AE – Steven Parry – present – Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve the application for sales associate; the motion passed without dissent.

Tab AF – Nelson Perez – present – Commissioner Furst moved; seconded by Commissioner Boring to approve the application for sales associate; the motion passed without dissent.

Tab AH – Jason Schreiber – present – Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve the application for sales associate; the motion passed without dissent.

Tab AM – Debra L. Vallier – present – Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve the application for broker; the motion passed without dissent.

Tab AO – John S. White – present – Vice-Chair Hornsleth moved; seconded by Commissioner Boring to approve the application for sales associate; the motion passed without dissent.

Tab AP – Yvette S. Williams – present – Vice-Chair Hornsleth moved; seconded by Commissioner Boring to approve the application for sales associate; the motion passed without dissent.

Tab AR – Brandon L. Young – present – Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve the application for sales associate; the motion passed without dissent.

Tab E – Dennis Adetu – not present – Vice-Chair Hornsleth moved; seconded by Commissioner Chotas to deny the application for sales associate; the motion passed without dissent. to deny the application for sales associate; the motion passed without dissent.

Tab G – Eric Bloom – not present – Commissioner Furst moved; seconded by Vice-Chair Hornsleth to deny the application for sales associate; the motion passed without dissent.

Tab I – Duane Glenn Boyd – not present – Vice-Chair Hornsleth moved; seconded by Commissioner Chotas to deny the application for broker; the motion passed without dissent.

Tab L – Kyle Montana Colby – not present – Vice-Chair Hornsleth moved; seconded by Commissioner Boring to approve the application for sales associate; the motion passed without dissent.

Tab N – Ariel Daniel – not present – Commissioner Furst moved; seconded by Vice-Chair Hornsleth to deny the application for sales associate; the motion passed without dissent.

Tab P – Alejandro Diaz – not present – Commissioner Fryer moved; seconded by Vice-Chair Hornsleth to deny the application for sales associate; the motion passed without dissent.

Tab Q – Christopher Douglas – not present – Applicant withdrew the application and waived the 90-day requirement.

Tab R – Christin Fleming – not present – Commissioner Boring moved; seconded by Vice-Chair Hornsleth to approve the application for sales associate; the motion passed 5 to 1.

Tab U – Uberti Gutierrez – not present – Commissioner Chotas moved; seconded by Vice-Chair Hornsleth to deny the application for sales associate; the motion passed without dissent.

Tab W – Rebecca M. Komasa – not present – Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to deny the application for sales associate; the motion passed without dissent.

Tab Z – Vivianne L. Medina – not present – Commissioner Fryer moved; seconded by Commissioner Furst to approve the application for sales associate; the motion passed 5 to 1.

Tab AG – Sherri K. Rinker – not present – Vice-Chair Hornsleth moved; seconded by Commissioner Furst to deny the application for sales associate; the motion passed without dissent.

Tab AI – Danielle M. Sequino – not present – Applicant requested a continuance and waived the 90-day requirement. Commissioner Furst moved; seconded by Vice-Chair Hornsleth to grant a continuance until February 2014.

Tab AJ – Scott M. Snyder – not present – Commissioner Fryer moved; seconded by Commissioner Boring to deny the application for sales associate; the motion passed without dissent.

Tab AK – Erin Megan Stubbs – not present – Vice-Chair Hornsleth moved; seconded by Commissioner Boring to deny the application for sales associate; the motion passed without dissent.

Tab AL – Orlando Torres – not present – Commissioner Fryer moved; seconded by Commissioner Furst to deny the application for sales associate; the motion passed without dissent.

Tab AN – Leslie Weiss – not present – Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve the application for sales associate; tie vote 3 to 3. No action taken.

Consent Agendas

Agenda A

The Commission considered 68 applicants from the Consent Agenda A; Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve 37 applicants and require 31 applicants to be placed on the Summary of Applicant Agenda; the motion passed without dissent.

The following applicants were approved:

Adams, Charles
Beatty, Norman
Bernstein, Brett

Graziano, Arthur
Gregory, Richard
Huerta, Diana

Randin, Ashley
Rasuly, Lisa
Robaina, Renee

Boylan, Richard
Burke, Benjamin
Caramello, James
Cepeda, Efrain
Chicareli, Zaza
Coello, Jorge
Comas, Rafael
Daguer, Alejandro PA
Franz, Lydia
Frawley, Michael

Lavecchia, Eric
Laverty, Michael
Nugteren, Christopher
Ongstad, Wade
Parrish, Carlee
Perez, Anthony
Pierre, Patrick
Pinholster, Taia
Pisetzky, Arthur

Santos, Dillon
Sims, Christopher
Theocles, Alexander
Tirone, Rodelie
Torres, Patricia
Waltzer, Kelly
Webb, Shelley
Webster, Alan Jr.
Williams, Deborah

The following applicants will be placed on the next available Summary of Applicant agenda:

Angulo, Alfredo
Berry, Bonet
Bochenski, Briton
Bragg, Rachel
Burt, Jon
Cornell, Alexis
Crawford, Erin
Derenzo, Giacinto
Dias, Kalel
Dos Santos, Will
Dufralessi, Jean

Farrens, Gregory
Garofalo, Laura
Hirunworn, Apirat
Knight, Ricardo
Krauss, Carl
Lartigau, Christopher
Leiva, Giscard
Manos, Monty
Manso, Julio
Mejia San Martin, Javier

Naimoli, Lindsey
Siegfried, Keegan
Thompson, Sean
Tiongson, Edward
Vanwagner, William II
Vaz, Christopher
Velasco, Carlos Jr.
Walsh, Kelly
Weatherby, Gregory
Williams, Ryon II

Agenda B

The Commission considered 51 applicants from the Consent Agenda B; Vice-Chair Hornsleth moved; seconded by Commissioner Fryer to approve 35 applicants and require 16 applicants to be placed on the Summary of Applicant Agenda; the motion passed without dissent.

The following applicants were approved:

Affronti, Alexander
Ayala, Eliezer
Balazero, Rosario
Beadleston, Nicholas
Black, Shayne
Borenz, Steven
Bright, Lonnie
Caldwell, Pervis
Fleites, Jeana
Florman, Mark
Gallagher, Brian
Hales, Daniel

Hallowood, Belinda
Herskovits, David
Hesterlee, Violet
Hurst, Robert
Iturrino, Jesus
Kalicharan, Gowkarran
Kalli, Daniel
Largent, Eric
Littleton, Isolda
Manos, Richard
McCullon, Roberta
Pennell, Barbara

Penning, Robert
Powell, Karen
Rackmil, Bruce
Seely, Michael
Shihadeh, Mohamed
Takshina, Fumi
Volkema, Charles
Wedenfeller, Jason
Weigel, Steven
Wigand, Tara
Young, Matthew

The following applicants will be placed on the next available Summary of Applicant agenda:

Camilo, Christian
Clark, Richard
Flitman, Caycie
Goldenberg, Andrew

Katz, Marcel
Kelley, Natalie
Kuntz, William Jr.
Lapene, Jason

Paul, Sean
Rasmussen, Rebecca
Toussaint, Wendy
Virelles, Alexander

Hassun, Alfredo
Jerena, Maylin

Miller, Michael

White, Jason

Review and Consideration of the Real Estate Continuing Education Courses

Director Watkins presented the following continuing education courses for the Commission's consideration:

Tab A – National USPAP Update – New Course (7 hours Specialty CE; – classroom) – Application No. 19758 – Jackie Vincent, McKissock, LP.

Ms. Vincent was not present. The Commission entered into discussion. Commissioner Fryer moved to approve the continuing education course listed above for 3-hours only; Vice-Chair Hornsleth seconded the motion. The motion passed without dissent.

Tab B – UAD – Up Close and Personal – New Course (3 hours Specialty CE; – classroom) – Application No. 19811 – Jackie Vincent, McKissock, LP.

Ms. Vincent was not present. The Commission entered into discussion. Commissioner Fryer moved to approve the continuing education course listed above for 3-hours; Vice-Chair Hornsleth seconded the motion. The motion passed 4 to 1. Commissioner Boring was not present in the room during the vote.

Commissioner Boring returned to the meeting.

Tab C – Analyze This! Applications of Appraisal Analysis – New Course (3 hours Specialty CE; – classroom) – Application No. 19812 – Jackie Vincent, McKissock, LP.

Ms. Vincent was not present. The Commission entered into discussion. Commissioner Fryer moved to approve the continuing education course listed above for 3-hours; Vice-Chair Hornsleth seconded the motion. The motion passed without dissent.

Tab D – The Green Guide to Appraising – New Course (7 hours Specialty CE; – classroom) – Application No. 19813 – Jackie Vincent, McKissock, LP.

Ms. Vincent was not present. The Commission entered into discussion. Vice-Chair Hornsleth moved to approve the continuing education course listed above for 7-hours; Commissioner Fryer seconded the motion. The motion passed without dissent.

Special Agenda

Illinois Mutual Recognition Request

Director Watkins presented the contract draft between the State of Florida and the State of Illinois for the Commission's consideration and approval. Vice-Chair Hornsleth moved to approve the Mutual Recognition Agreement as presented; Commissioner Fryer seconded the motion; the motion passed without dissent.

Director's Comments

Director Watkins provided the following comments:

- The Department has held Board Chair and Vice-Chair training for a number of years and Secretary Lawson has decided to re-implement this training. Ms. Watkins reported that the training session is tentatively scheduled for February 27, 2014 and that the FREC Chair and Vice-Chair have been invited.
- The Florida Realtors Mid-Winter meeting is scheduled for January 22 – 26, 2014, and that the Department presentations at 6 or 7 of the various sessions, will convey a number of update including but not limited to, update on the syllabus, pass rate and property management.
- Great American Realtor Days has been scheduled for March 18 and 19, 2014, which is the same days of the FREC meeting. Director Watkins suggested rescheduling the March FREC meeting. Commissioner Fryer moved to change the dates of the probable cause and FREC general meeting to March 10, 11 and 12, 2014; Commissioner Boring seconded the motion; the motion passed without dissent.

Commission's Remarks

Commissioner Furst wanted to discuss when FREC imposes disciplinary actions against sales associate licensees. Commissioner Furst requested that the Department adopt a procedure to provide the sales associate's registered employer a copy of the Final Order for their information. Director Watkins stated that the Division and Office of General Counsel had a meeting last week and OGC to discuss this issue and reported that OGC will be sending a copy of the Final Order to the broker. Mr. Barnhart stated he will include the address of the broker in the Certificate of Service.

Commissioner Boring provided a brief presentation relating to a concern dealing with government-sponsored enterprises (GSE) and not accepting escrow deposits. Ms. Watkins stated that she also received an email from another licensee regarding this concern and upon researching this issue it appears to be a policy of the asset managers. Commissioner Fryer stated that if in fact HUD has such a requirement we may need to look at some rule modifications to be consistent with Federal law more clarification. Commissioner Boring responded that it was the asset manager that stated that is how HUD wants it handled. Director Watkins stated that the Division would look into it and report back to the Commission.

Commissioner Fryer reported that there is a new HUD 1 coming out, and stated that the instructors test portions of the HUD 1 on the broker's exam and asked what BET intends to do about that and how soon will the educators be required to teach the new HUD 1. Director Watkins stated that she would find out and report back to the Commission.

Commissioner Furst reported that she would be chairing the education workshop tomorrow for the sales associate syllabus and requested permission also appoint Dick Fryer to the committee. Chair Enzor appointed Commissioner Fryer to the taskforce group.

Commissioner Furst requested the Division email the Commissioners the dates and times of the upcoming Florida Realtors Mid-Winter committee meetings.

Chair Enzor thanked the Division staff for their continued work in coordinating the monthly FREC meetings.

Public Comments

The Commission invited but did not receive comments from the audience.

Adjournment

There being no further business and no objection, the Vice-Chair adjourned the meeting at approximately 12:35 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for February 18 and 19, 2014, in Orlando, Florida.



Roger Enzor, Chair
Florida Real Estate Commission



Juana Watkins, Director
Florida Real Estate Commission