

**Charlie Liem**, Interim Secretary

**Charlie Crist**, Governor

**Minutes of  
THE FLORIDA REAL ESTATE COMMISSION  
March 16 and 17, 2010  
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 16th day of March, 2010.

The following Commission members were in attendance: Chair Roger Enzor, Vice-Chair Richard DeNapoli; Poul Hornsleth, Ralph McCoig, Michael Guju and John Ruffier. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Thomas O'Bryant, Jr., Director and Executive Director; Juana Watkins, Deputy Director; James Harwood, Chief Attorney; Brad Koshland, Bureau Chief of Enforcement; Jennifer Blakeman, Patrick Cunningham, Joseph Solla, Senior Attorneys; JoEllen Peacock, Education Coordinator; Denise Johnson, OMC II; Jocelyn Pomales, Regulatory Specialist III; Angela Francis and Justin Moore, Investigators; Mike Hanson, Unlicensed Activity; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court reporter services.

**Approval of the Minutes**

Commissioner McCoig moved; Vice-Chair DeNapoli seconded to approve the Minutes of the February 16 and 17, 2010, General Meeting, as written. Motion carried unanimously.

Commissioner McCoig moved; Commissioner Guju seconded to approve the Minutes of the December 15 and 16, 2009, General Meeting, as amended. Motion carried.

**Unlicensed Activity Report**

Director O'Bryant presented the Unlicensed Activity Report. Director O'Bryant addressed questions from the Commissioners.

**Petition for Declaratory Statement**

FREC Counsel Barnhart presented the Petition for Declaratory Statement regarding Section 475.011(2), Florida Statutes, received from Albert Gibson, Esquire, on behalf of Dan Kemp and requested the Commission address the Petition. Attorney John Oden appeared in support of the Declaratory Statement. The Commission entered into discussion. The Commission received comments from the audience. Commissioner Hornsleth moved to deny the Petition for Declaratory

statement based on the conclusion that the arrangement as described by the Petitioner would be a commission based primarily on rental income and does not meet the exemption in Section 475.011(2), Florida Statutes. Commissioner Ruffier seconded the motion. The motion carried unanimously; therefore the Commission denies the petition for declaratory statement.

### **Review and Consideration of the Real Estate Continuing Education Courses**

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

1. Windstorm Mitigation – New Course – Application No. 11786

Ms. Burton and Mr. Scott Koedel appeared in support of the new course. Commissioner Hornsleth moved to approve the continuing education course listed above as it meets the requirements of Section 475.182, Florida Statutes; Commissioner Guju seconded the motion. Tie vote 3 to 3. No action taken.

2. How To Invest In Commercial Real Estate – New Course – Application No. 11825

Mr. Gault appeared in support of the new course. Commissioner McCoig moved to approve the continuing education course listed above as it meets the requirements of Section 475.182, Florida Statutes; Commissioner Guju seconded the motion. The motion passed 4 to 2.

3. Chinese Drywall – New Course – Application No. 12095

Mr. Conway appeared in support of the new course. Commissioner Hornsleth moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner Guju seconded the motion. The motion carried unanimously.

4. Secrets of the Happy Home Inspector – Renewal Course – Application No. 12243

Mr. Conway appeared in support of the renewal course. Commissioner Ruffier moved to approve the continuing education course listed above as it does meet the requirement of Section 475.182, Florida Statutes; Commissioner Hornsleth seconded the motion. The motion passed 5 to 1.

5. Is There a Fungus Among Us? – Renewal Course – Application No. 12244

Mr. Conway appeared in support of the renewal course. Commissioner Hornsleth moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner McCoig seconded the motion. The motion passed 4 to 2.

6. Home Inspection 101 for Real Estate Professionals – New Course – Application No. 11870

Mr. Erickson did not appear in support of the new course. The Commission entered into discussion. Commissioner Hornsleth moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner McCoig seconded the motion. The motion carried unanimously.

7. Know Your Exteriors: The Good, the Bad and Everything in Between – New Course – Application No. 11988

Mr. Erickson did not appear in support of the new course. The Commission entered into discussion. Commissioner Ruffier moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner McCoig seconded the motion. The motion carried unanimously.

**Moment of Silence**

Chair Enzor stated that Attorney James R. Mitchell passed away recently and requested to have a moment of silence in remembrance of Mr. Mitchell and his family.

**Ratification of Suspended Licenses**

Director O'Bryant requested the Commission ratify reinstatement of the real estate licenses of Edward E. Cambas and J. Leslie Wiesen who have met all requirements for reinstatement. The Commission ratified the actions unanimously.

**Escrow Disbursement Orders**

Attorney Joseph Solla presented 19 Escrow Disbursement Orders and 3 Orders for the Commission's consideration. Mr. Solla stated that item V has been settled. Upon recommendation of the Legal Section, the Commission issued 18 Escrow Disbursement Orders with a correction to item I and 3 Orders. Commissioner Hornsleth moved to approve the Legal Section recommendation. Vice-Chair DeNapoli seconded the motion. The motion carried unanimously.

**DOAH Recommended Order - Applicant**

**John C. Giacoletti v. FREC – DOAH Case No. 09-6521**

FREC Counsel Tom Barnhart presented the Recommended Order of the Administrative Law Judge. Neither Petitioner nor his counsel was present. The Commission considered the Recommended Order of the Division of Administrative Hearings recommending the Petitioner's application for licensure as a real estate sales associate be denied. Vice-Chair DeNapoli moved to adopt the Findings of Fact and Conclusions of Law and accept the Recommended Order. Commissioner Hornsleth seconded the motion. The motion carried unanimously.

**Legal Final Order Docket**

**Tab C – Jean Louis Bourgeois, BK 672197, Case No. 2009050417 – Respondent's Request for an Informal Hearing**

Mr. Bourgeois was present and represented by Paul Klemow, Esquire. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Solla represented the department and presented the case to the Commission. The Commission granted the Informal Hearing and entered into discussion. Commissioner McCoig moved, seconded by Commissioner Hornsleth; motion carried unanimously to find the Respondent guilty as charged.

Commissioner McCoig moved, seconded by Commissioner Guju; motion passed 4 to 1 to impose the following sanctions:

**Penalty imposed:** \$500.00 fine; \$46.20 costs; 6 months probation; attend one 2-day Florida Real Estate Commission meeting. **Violation:** Guilty of having had a registration suspended, revoked, or otherwise acted against in any jurisdiction in violation of Section 475.25(1)(s), Florida Statutes.

**Tab Q – Joe Kuruvila, BK 3048145, Case Nos. 2003076027, 2004034970, 2004052569, 2005037625, 2006002999, 2007024888 – Respondent’s Request for an Extension of Time to Comply with Final Order**

Mr. Kuruvila was not present and represented by Daniel Villazon, Esquire. Commissioner Guju was recused due to participation on the probable cause panel.

Ms. Blakeman represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Guju moved, seconded by Commissioner McCoig; motion carried unanimously to grant 7 years from the date of this FREC meeting to complete the fine requirements of the Final Order and extend the probation period to 7 years with early termination.

**Action Taken:** Extension granted.

**Tab A – George Randolph Keys, SL 3139659, Case No. 2005058793 – Recommended Order**

Mr. Keys was not present and represented by Daniel Villazon, Esquire. Commissioner Hornsleth was recused due to participation on the probable cause panel.

Mr. Villazon requested to continue the case and waived the 90-day requirement to file the Final Order. The Commission unanimously agreed to continue the case.

**Action Taken:** Case continued.

**Agenda B, Tab B – Victor Alexis Torres, BK 653448, Case Nos. 2007063243, 2007063142, 2007063276, 2007063339, 2007063347, 2007063367 – Stipulation**

Mr. Torres was present and represented by Brian Bieber, Esquire. Chair Enzor was recused due to participation on the probable cause panel.

Ms. Blakeman represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Ruffier moved; seconded by Commissioner McCoig to accept the Stipulation. Motion passed 4 to 1.

**Penalty imposed:** \$4,191.00 costs, respondent’s license will be suspended for 12 months to run concurrent with other cases, must attend 8 Florida Real Estate Commission general meetings, 65 hours of continuing education. **Violation:** Guilty of failure to direct, control or manage an associate employed by him in violation of Section 475.25(1)(u), Florida Statutes; guilty of failure to preserve and make available to the Petitioner, all books, records, and supporting documents and failed to keep an accurate account of all trust fund transactions in violation of Rule 61J2-14.012(1), Fla.

Administrative Code and Section 475.5015, Florida Statutes, and therefore, in violation of Section of 475.25(1)(e), Florida Statutes.

**Action taken:** Stipulation accepted

**Tab Z – Victor Alexis Torres, BK 653448, Case Nos. 2007063208, 2007063235, 2007063213 – Stipulation**

Mr. Torres was present and represented by Brian Bieber, Esquire. Commissioner Ruffier was recused due to participation on the probable cause panel.

Ms. Blakeman represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Guju moved; seconded by Commissioner Ruffier to accept the Stipulation as amended. Motion passed 3 to 2.

**Penalty imposed:** \$1,592.25 costs, suspended for 12 months to run concurrent with other cases.  
**Violation:** Guilty of failure to direct, control or manage an associate employed by him in violation of Section 475.25(1)(u), Florida Statutes; guilty of failure to preserve and make available to the Petitioner, all books, records, and supporting documents and failed to keep an accurate account of all trust fund transactions in violation of Rule 61J2-14.012(1), Fla. Administrative Code and Section 475.5015, Florida Statutes, and therefore, in violation of Section of 475.25(1)(e), Florida Statutes.

**Action taken:** Stipulation accepted

**Tab AA – Victor Alexis Torres, BK 653448, Case Nos. 2007063328 – Stipulation**

Mr. Torres was present and represented by Brian Bieber, Esquire. Vice-Chair DeNapoli was recused due to participation on the probable cause panel.

Ms. Blakeman represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Guju moved; seconded by Commissioner Ruffier to accept the Stipulation. Motion failed 2 to 3. Commissioner Hornsleth moved; seconded by Commissioner McCoig seconded. Motion passed 3 to 2.

**Action taken:** Stipulation denied.

**Tab AA – Victor Alexis Torres, BK 653448, Case Nos. 2007063328 – Amended Stipulation**

Mr. Torres was present and represented by Brian Bieber, Esquire. Vice-Chair DeNapoli was recused due to participation on the probable cause panel.

Ms. Blakeman represented the department and presented the case to the Commission. The Commission entered into discussion. Ms. Blakeman agreed to delete the case numbers she is withdrawing from the agenda referenced in paragraph eight of the Stipulation. Commissioner Ruffier moved; seconded by Commissioner Guju to strike the case numbers withdrawn from the March 15, 2010, Appearance Docket agenda referenced in paragraph eight of the Stipulation and accept the Amended Stipulation. Motion passed 3 to 2. Commissioner Ruffier moved to vacate the prior ruling of case no. 2007063328, denying the stipulation; seconded by Commissioner Guju. Motion carried unanimously.

**Penalty imposed:** \$3,000.00 fine, \$1,592.25 costs, suspended for 12 months to run concurrent with other cases. **Violation:** Guilty of failure to preserve and make available to the Petitioner, all books, records, and supporting documents and failed to keep an accurate account of all trust fund transactions in violation of Rule 61J2-14.012(1), Fla. Administrative Code and Section 475.5015, Florida Statutes, and therefore, in violation of Section of 475.25(1)(e), Florida Statutes.

**Tab T – E A G Realty, Inc., CQ 1015933, Case No. 2007063147 – Stipulation**

Mr. Torres was present and represented by Brian Bieber, Esquire. Chair Enzor was recused due to participation on the probable cause panel.

Ms. Blakeman represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Ruffier moved; seconded by Commissioner Guju to accept the Stipulation as amended. Motion passed 3 to 2.

**Penalty imposed:** \$1,000 fine, \$445.50 costs. **Violation:** Guilty of failure to direct, control or manage an associate employed by him in violation of Section 475.25(1)(u), Florida Statutes.

**Action taken:** Stipulation accepted

**Tab V – Fortune International Realty, Inc., CQ 213971, Case No. 2008066556 – Stipulation**

Respondent was not present and was represented by Heather Rutecki, Esquire. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner McCoig to accept the Stipulation as amended. Motion carried unanimously.

**Penalty imposed:** \$1,000.00 fine, \$313.50 costs paid within 6 months from the Effective date of the Final Order. **Violation:** Failure to preserve and make available to the Petitioner all books, records, and supporting documents and failed to keep an accurate account of all trust fund transactions in violation of Rule 61J2-14.012 (1), Florida Administrative Code and Section 475.5015, Florida Statutes, and therefore, in violation of Section 475.25(1)(e), Florida Statutes.

**Action taken:** Stipulation accepted.

**Tab X – Charles E. Stallions, BK 610125, Case No. 2008003232; Charles Stallions Real Services, Inc., CQ 1016736, Case No. 2008003290 – Stipulation**

Respondents were not present and represented by Heather Rutecki, Esquire. 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 entered into discussion. Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to accept the Stipulation as amended. Motion carried unanimously.

**Penalty imposed:** Respondent Stallions – \$1,800.00 fine, \$1,200.00 costs, 4-hour broker escrow management course, 1 year probation, attend two 2-day FREC general meetings. **Violation:** Failure to preserve and make available to the Petitioner all books, records, and supporting documents and failed to keep an accurate account of all trust fund transactions in violation of Rule 61J2-14.012 (1), Florida Administrative Code and Section 475.5015, Florida Statutes, and therefore, in violation of Section 475.25(1)(e), Florida Statutes; guilty of failure to prepare the required written monthly escrow statement-reconciliation in violation of Rule 61J2-14.012(2) and (3), Florida Administrative Code and therefore, in violation of Section 475.25(1)(e), Florida Statutes,

**Penalty imposed:** Respondent Charles Stallions Real Estate Services, Inc. – Reprimand. **Violation:** Guilty of failure to prepare the required written monthly escrow statement-reconciliation in violation of Rule 61J2-14.012(2) and (3), Florida Administrative Code and therefore, in violation of Section 475.25(1)(e), Florida Statutes, guilty of failure to preserve and make available to the Petitioner, all books, records, and supporting documents and failed to keep and accurate account of all trust funds transaction sin violation of Rule 61J2-14.012(1), Florida Administrative Code, and therefore in violation of Section 475.25(1)(e), Florida Statutes

**Action taken:** Stipulation accepted as amended.

**Tab M – Terrence Jerome Miedzianowski, SL 638010, Case No. 2008022337 – Respondent’s Request for an Informal Hearing**

Mr. Miedzianowski was present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Solla represented the department and presented the case to the Commission. Respondent disputed several allegations in the Administrative Complaint. The Commission entered into discussion. Petitioner withdrew the case from the docket to submit to the Division of Administrative Hearings for a formal hearing.

**No Action Taken**

**Tab W – Carol Jean Rosell, SL 3104628, Case No. 2008023784 – Stipulation**

Ms. Rosell was present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Solla represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Hornsleth moved to deny the Settle Agreement; motion died for lack of second. Commissioner Ruffier moved; seconded by Commissioner McCoig to accept the Stipulation as amended. Motion carried unanimously.

**Penalty imposed:** \$264.00 costs, 1 year probation, attend two 2-day FREC meetings. **Violation:** Guilty of concealment in any business transaction in violation of Section 475.25 (1)(b), Florida Statutes.

**Action taken:** Amended Stipulation accepted.

**Tab B – Ruth Battiste Black, SL 701037, Case No. 2008006727 – Petitioner’s Request for an Informal Hearing**

Ms. Black was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Solla represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Hornsleth moved, seconded by Commissioner McCoig; motion carried unanimously to find the Respondent guilty as charged. Commissioner Hornsleth moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

**Penalty imposed:** Revoke, \$323.40 costs. **Violation:** Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes; guilty of having operated as a broker while licensed as a sales associate in violation of Section 475.42(1)(b), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

**Agenda B, Tab A – Giuseppe A. Capilli, SL 3110494, Case No. 2007064042 – Petitioner’s Request for an Informal Hearing**

Mr. Capilli was not present and not represented by counsel. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Hornsleth moved, seconded by Vice-Chair DeNapoli; motion carried unanimously to find the Respondent guilty as charged. Commissioner Hornsleth moved, seconded by Vice-Chair DeNapoli; motion carried unanimously to impose the following sanctions:

**Penalty imposed:** Revoke, \$313.50 costs. **Violation:** Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes.

**Tab E – Gustavo Christlieb, SL 622043, Case No. 2008023918 – Respondent’s Request for an Informal Hearing**

Mr. Christlieb was not present and not represented by counsel. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Hornsleth moved, seconded by Commissioner Guju; motion carried unanimously to find the Respondent guilty as charged. Commissioner Hornsleth moved, seconded by Commissioner Guju; motion carried unanimously to impose the following sanctions:

**Penalty imposed:** Revoke, \$554.40 costs. **Violation:** Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable



negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes; guilty of having collected any money in connection with any real estate brokerage transaction except in the name of the employer and with the express consent of the employer and is guilty of commencing or maintaining any action for a commission or compensation against any person except his registered employer in violation of Section 475.42(1)(d), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes; guilty of failure to maintain trust funds in the real estate brokerage escrow bank account or some other proper depository until disbursement thereof was properly authorized in violation of Section 475.25(1)(k), Florida Statutes.

**Tab F –Elizabeth Cooke, BK 3010400, Case No. 2008025908 and A Purr-Fect Home LLC, CQ 1015962, Case No. 2008025910 – Respondents’ Request for an Extension of Time to Comply with Final Order**

Ms. Cooke was not present and not represented by counsel. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Hornsleth moved, seconded by Vice-Chair DeNapoli; motion carried unanimously to grant a 1 year extension from the date of filing of this Order to complete the requirements of the Final Order.

**Action Taken:** Extension granted for 1 year.

**Tab G – Kimberly Ann Fleak, SL 691841, Case No. 2008044439 – Petitioner’s Request for an Informal Hearing**

Ms. Fleak was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Harwood represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Vice-Chair DeNapoli Hornsleth moved, seconded by Commissioner Hornsleth; motion carried unanimously to hold case in abeyance for 6 months until the September 14, 2010, FREC meeting and grant a 6 months extension to complete the Final Order requirements set forth in case no. 200636680. by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

**Action Taken:** Case No. 2008044439 held in abeyance and extension granted for Case No. 200636680.

**Tab H – Susanna Foglino, SL 3026661, Case No. 2008038285 – Petitioner’s Request for an Informal Hearing**

Ms. Foglino was not present and not represented by counsel. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Hornsleth moved, seconded by Commissioner McCoig; motion carried unanimously to find the Respondent

guilty as charged. Commissioner Hornsleth moved, seconded by Vice-Chair DeNapoli; motion carried unanimously to impose the following sanctions:

**Penalty imposed:** Revoke, \$174.90 costs. **Violation:** Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes.

**Tab J – Frank Paul Giza, BK 489017, Case No. 2007041726 – Respondent’s Request for an Extension of Time to Comply with Final Order**

Mr. Giza was not present and not represented by counsel. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Hornsleth moved, seconded by Vice-Chair DeNapoli; motion carried unanimously to grant a 1 year extension from the filing date of the Order to complete the requirements of the Final Order.

**Action Taken:** Extension granted.

**Tab L – Jason Anthony Martinez, SL 3078758, Case No. 2009064384 – Voluntary Surrender of Licensure for Permanent Revocation**

Respondent was not present nor presented by counsel. 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. Vice-Chair DeNapoli moved, seconded by Commissioner Guju to accept the Affidavit for the Voluntary Surrender of License for Permanent Revocation; motion carried unanimously.

**Penalty imposed:** Revoked.

**Tab O – Horace Gerald Reynolds, Jr., BK 566555, Case No. 2002010004283 and 2010004285; Reynolds Realty Company, CQ, Case No. 2008058649 – Voluntary Surrender of Licensure for Permanent Revocation**

Mr. Reynolds was not present and not represented by counsel. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Vice-Chair DeNapoli moved, seconded by Commissioner Hornsleth to accept the Affidavit for the Voluntary Surrender of License for Permanent Revocation as to Respondent Horace Reynolds, Jr. only; motion carried unanimously. Case No. 2010004285 relating to Reynolds Realty Company was withdrawn.

**Penalty imposed:** Respondent Horace Reynolds, Jr. revoked.

**Tab P – William Joseph Skipper, SL 638010, Case No. 200806565 – Petitioner’s Request for an Informal Hearing**

Mr. Skipper was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Harwood represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner McCoig; motion carried unanimously to find the Respondent guilty as charged. Commissioner Ruffier moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

**Penalty imposed:** 6 mos. suspension, \$254.10 costs, attend two 2-day FREC meetings, 6 mos. probation. **Violation:** Guilty of having violated a lawful order of the Florida Real Estate Commission in violation of Section 475.42(1)(e), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

**Tab S – Janet Elaine Bolinski, ZH 1001185, Case No. 2009036096 – Stipulation**

Ms. Bolinski was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Solla represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Hornsleth moved; seconded by Vice-Chair DeNapoli to accept the Stipulation as amended. Motion carried unanimously.

**Penalty imposed:** \$500.00 fine, 231.00 costs, 1 year probation, attend one 2-day FREC meeting. **Violation:** Guilty of failure to complete educational requirements in violation of Rule 61J2-3.011, Fla. Administrative Code and therefore in violation of Section 475.25(1)(e), Florida Statutes.

**Action taken:** Stipulation accepted.

**Tab AB – Alan Warman, SL 612174, Case No. 2008054561 – Stipulation**

Mr. Warman was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Ms. Blakeman represented the department and presented the case to the Commission. The Commission entered into discussion. Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to accept the Stipulation as amended. Motion carried unanimously.

**Penalty imposed:** 60-day suspension, \$394.35 costs, 1 year probation, 30 hours of education, respondent’s license will be suspended for 6 months. **Violation:** Guilty of failure to immediately place deposit with the registered employer in violation of Rule 61J2-14.009, Florida Administrative Code and Section 475.25(1)(k), Florida Statutes; guilty of having operated as a broker while licensed as a sales associate in violation of Section 475.42(1)(b), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes; guilty of having collected any money in connection with any real estate brokerage transaction except in the name of the employer and with the express consent of the employer and is guilty of commencing or maintaining any action for a commission or compensation

against any person except his registered employer in violation of Section 475.42(1)(d), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

**Action taken:** Stipulation accepted.

The following cases were withdrawn

- Tab A – George Randolph Keys
- Tab I – Lydia Garcia
- Tab K – Vincente Luz
- Tab M – Terrence Jerome Miedzianowski
- Tab N – Donald Pellicer and Mann Pellicer, Inc.
- Tab R – William A. Morrissey
- Tab U – E A G Realty, Inc.
- Tab Y – Victor Alexis Torres

Consent Agenda

The Commission considered 83 applicants from the Consent Agenda; Commissioner Hornsleth moved; seconded by Vice-Chair DeNapoli to approve 62 applicants and require 21 applicants to be placed on the Summary of Applicant Agenda; motion carried unanimously.

The following applicants were approved:

- |                         |                      |                          |
|-------------------------|----------------------|--------------------------|
| Ashenback, Christine    | Beck, Christopher    | Bombold, Roy             |
| Briggs, Russell III     | Brueggemann, Douglas | Buono, Brenda            |
| Caldwell, Beverly       | Callaghan, Veronica  | Chambers, Christopher    |
| Corsano, John           | Corvello, Dianne     | Dalouche, Katina         |
| Dean, Charles           | Defeudis, Karen      | Edelman, Marc            |
| Fischer, Mark C II      | Ford, John           | Galt, David              |
| Gandy, Patrece          | Gehman, Matt         | Goldstein, Jeffrey       |
| Governale, Rachel       | Gray, Matthew        | Haba, David              |
| Harrington, Nicholas    | Hudson, Cheryl A.    | Hudson, Joshua           |
| Jagoazinski, Joseph     | Key, Douglas         | Koepplinger, Christopher |
| Konstand, Nicholas      | Kuznetsov, Viktoriya | Lanoux, David            |
| Logan, Denis            | Machodo, Edward      | Martinez, Francisco      |
| Mason Rayetta           | McGettrick, Peter    | McPhilimany, John J.     |
| Menendez, Milvio        | Mills, Lee           | Nepola, Lucia            |
| Noland, Myron           | Nott, James          | Ober, William            |
| Paulsen, Charles A. III | Pavich, Michael      | Peters, Lynne            |
| Powell, Cody            | Raver, John          | Richardson, Brian        |
| Robins, Mark            | Robinson, John       | Roy, Kenneth             |
| Ruddy, James            | Ruffin, Lonnie       | Schilizzo, Irene         |
| Shapira, Shneur         | Smith, Robert        | Steele, Robert           |
| Veiti, Raul             | Waldron, Stacey      |                          |

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

Casagni, John  
Doyle, Mark  
Goudy, Louis  
McCarthy, Kevin  
Rossen, Leon  
Svetliak, Kristopher  
Widdifield, Eric

Davis, Ronald  
Eisnaugle, Tracy Lynn  
Guttman, Michael  
Meyer, Mark  
Sause, Christopher  
Tiffany, Mona  
Wilson, Richard

Doscher, Scott  
Fox, James  
Mazuera, Sisi  
Neal, Maggie  
Servais, Richard  
Ulyanitskaya, Natalya  
Wilson, Stephanie

### **Director's Comments**

Director O'Bryant reported that he had the opportunity to attend a town hall meeting regarding mortgage fraud issues, held at the Florida National University in Miami. The media covered the meeting and approximately 1200 people attended.

Director O'Bryant reported that the department is in the process of improving on-line applications for new licensees. Some of the applications will go live within the next week in the improved on-line format, including the real estate sales associate licenses by exam and mutual recognition. Applicants will be able to apply online from start to finish and upload documents in order to provide a complete application at the time of submission. The applicant will also have the ability to save the application and access it at a later time to complete it, make changes or include the required documents applicable to their application.

Director O'Bryant stated that there were no rule items on today's agenda as the Department has tolled all real estate forms rules due to receiving comments from the Joint Administrative Procedures Committee relating to the Attestation Statement on all applicable department forms. The Joint Administrative Procedures Committee questioned the department's statutory authority relative to the attestation form language and the department is working to resolve the issue.

Director O'Bryant stated that the division has set the dates for the 2010 Instructor's Seminars and that this year the division is going to partner with Florida Realtors and conduct a seminar at the Florida Realtor convention.

There being no further business and no objection, the Chair adjourned the meeting at approximately 3:40 p.m.

### **March 17, 2010**

Chair Roger Enzor reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, on this 17th day of March, 2010.

The following Commission members were in attendance: Chair Roger Enzor, Vice-Chair Richard DeNapoli, Poul Hornsleth, Ralph McCoig, Michael Guju and John Ruffier. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Thomas W. O'Bryant Jr., Director; Juana Watkins, Deputy Director, Jennifer Blakeman, Senior Attorney, Bradford Koshland, Bureau Chief of Enforcement,

Denise Johnson, OMC II; Jeannie Adkinson, Regulatory Specialist III; Jocelyn Pomales, Regulatory Specialist III; Justin Moore and Angela Francis, Investigators; Michael Hansen, Unlicensed Activity; Lori Crawford, Regulatory Supervisor/Consultant; American Court Reporting, Inc. (407) 896-1813, provided court reporter services.

### **Summary of Applicants**

Denise Johnson, OMC II, presented 41 Summary of Applicants requesting to sit for the real estate examination.

Tab B – Axelberg, Brook; present; represented by Attorney Daniel Villazon – Commissioner Ruffier moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab O – Crotty, Michael J.; present; represented by Attorney Daniel Villazon – Commissioner Guju moved; seconded by Commissioner Ruffier to approve; motion carried unanimously.

Tab W – Gonzalez, Omar; present; represented by Attorney Daniel Villazon – Commissioner Hornsleth moved; seconded by Commissioner McCoig to approve; motion carried unanimously.

Tab AM – Murray, Theodore; present; represented by Attorney Daniel Villazon – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to continue to April. Applicant waived 90-day requirement; motion carried unanimously.

Tab X – Goodman, Craig; present; represented by Attorney David Ferguson, not present – Commissioner Guju moved; seconded by Commissioner Hornsleth to deny; motion carried unanimously.

Tab AK – Masucci, William F.; present; represented by Attorney Nancy Campiglia – Commissioner Hornsleth moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab A – Acevedo, Jesus; present; Commissioner Guju moved; seconded by Commissioner McCoig to approve; motion carried unanimously.

Tab C – Ayala Acosta, Wilbert; not present – Commissioner Hornsleth moved; seconded by Commissioner McCoig to deny; motion carried unanimously.

Tab D – Barnett, Christy Lynn; present; Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab E – Bello, Elton E.; present – Informal Hearing – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to adopt the Findings of Fact and Conclusions of Law of the Notice of Intent to Deny filed February 24, 2010 and uphold denial; motion carried unanimously.

Tab F – Bennifield, Shanteeka; not present – Commissioner Hornsleth moved; seconded by Commissioner Guju to deny; motion carried unanimously.

Tab G – Berg, Joel Alan.; present – Commissioner Hornsleth moved; seconded by Commissioner Guju to deny; motion carried unanimously.

Tab H – Boone, Robert S.; not present – Commissioner Hornsleth moved; seconded by Vice-Chair DeNapoli to deny; motion carried unanimously.

Tab I – Brown, Heather R.; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve; motion carried unanimously.

Tab J – Bunker, Jennifer; present – Commissioner McCoig moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab K – Butler, Pricilla; present – Informal Hearing – Commissioner Hornsleth moved; seconded by Commissioner McCoig to vacate the Findings of Fact and Conclusions of Law of the Notice of Intent to Deny filed December 11, 2009 and approve the application; motion carried unanimously.

Tab L – Carpenter, Jan Donald; present – Commissioner Hornsleth moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab M – Chervenak, Erich C.; not present – Commissioner McCoig moved; seconded by Commissioner Ruffier to approve; motion carried unanimously.

Tab N – Coronel, Luis Alberto; present – Commissioner Hornsleth moved to approve, seconded by Vice-Chair DeNapoli; motion carried unanimously.

Tab P – Cruz, Juan Jose; not present – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab Q – Daniels, Sean; present – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab R – Dasbach, Keith W.; present – Application withdrawn and waived 90-day requirement.

Tab S – Delrio, Omar; present – Application withdrawn and waived 90-day requirement.

Tab T – Dominguez, Paula J.; present – Application continued. Applicant waived 90-day requirement.

Tab U – Ezekian, Anthony H.; present – Commissioner Guju moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab V – Foster, Michelle S.; present – Commissioner McCoig moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab Y – Graver, Victoria E.; present – Commissioner Hornsleth moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab Z – Hartem, Kenneth P. Jr.; not present – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to deny; motion carried unanimously.

Tab AA – Haun, Jason L.; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve; motion carried unanimously.

Tab AB – Hunt, Dwayne E.; present – Commissioner Guju moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab AC – Johnson, Valerie F.; present – Commissioner Ruffier moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab AD – Jones, Dean A.; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve; motion carried unanimously.

Tab AE – Kaspari, Linda; present – Commissioner Guju moved; seconded by Commissioner Ruffier to approve; motion passed 4 to 2.

Tab AF – Klos, Stanley J. III; present – Commissioner McCoig moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab AG – Leet, Jason M.; not present – Commissioner Guju moved; seconded by Commissioner McCoig to deny; motion passed 5 to 1.

Tab AH – Mahoney, Brian J.; present – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve; motion carried unanimously.

Tab AI – Mallard, Crystal L.; present – Commissioner Ruffier moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab AJ – Martinez, Alexander; present – Commissioner McCoig moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab AL – McCall, Elton; not present – Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to deny; motion carried unanimously.

Tab AN – Nagy, Ryan; not present – Commissioner Hornsleth moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab AO – Ostrom, Melody M.; present – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab AP – Persons, Bradley J.; present – Commissioner McCoig moved; seconded by Vice-Chair DeNapoli to approve; motion carried unanimously.

Tab AQ – Pietri, Japhet; present – Application withdrawn and waived 90-day requirement.

Tab AR – Raniere, Shane B.; present – Commissioner Ruffier moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab AS – Richardson, Alicia; not present – Commissioner Guju moved; seconded by Commissioner Hornsleth to deny; motion carried unanimously.

Tab AT – Rodriguez, Mario; present – Application withdrawn and waived 90-day requirement.



Tab AU – Roe, James E.; present – Vice-Chair DeNapoli moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab AV – Rosa, Dennis; present – Commissioner Guju moved; seconded by Commissioner Ruffier to approve; motion passed 4 to 2.

Tab AW – Rosario, Oscar R.; present – Commissioner Guju moved; seconded by Commissioner McCoig to approve; motion carried unanimously.

Tab AX – Rupe, James G.; present – Commissioner Guju moved; seconded by Commissioner Hornsleth to approve the application; motion carried unanimously.

Tab AY – Sanchez, Sandra E.; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application; motion carried unanimously.

Tab AZ – Scruggs, James M.; present – Commissioner Hornsleth moved; seconded by Commissioner McCoig to approve the application; motion carried unanimously.

Tab BA – Staniszewski, Roman; present – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve the application; motion passed 5 to 1.

Tab BB – Thomas, Brandy R.; not present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application; motion carried unanimously.

Tab BC – Vasquez, Giovanni A.; present – Commissioner McCoig moved; seconded by Commissioner Hornsleth to approve the application; motion carried unanimously.

Tab BD – Vlasek, Robert B.; present – Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to approve the application; motion carried unanimously.

Tab BE – Wilson, Andre; present – Application withdrawn and waived 90-day requirement.

### **FREC Counsel Remarks**

Mr. Barnhart, Counsel to the Florida Real Estate Commission, provided a copy of recent case law regarding attorney's fees awarded relating to probable cause panels for the Commission's review and consideration. Mr. Barnhart reported that attorney's fees were awarded to licensees wherein the licensee prevailed in the prosecution, relating to two other boards. The attorney filed for attorney's fees and the court determined the probable cause panel did not actively ask questions regarding the cases wherein the department recommended filing an administrative complaint and awarded attorney's fee. Mr. Barnhart addressed questions from the Commissioners.

### **Commission Remarks**

Chair Enzor thanked the staff for their hard work in facilitating this month's meeting. Chair Enzor asked the Commissioners to submit their receipts in a timely manner.

Commissioner Hornsleth commended Chair Enzor for running a smooth meeting.

**Adjournment**

There being no further business and no objection, the Chair adjourned the meeting at approximately 1:50 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for April 20 and 21, 2010, in Orlando, Florida.



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Roger Enzor, Chair  
Florida Real Estate Commission



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Thomas W. O'Bryant, Jr.,  
Executive Director  
Florida Real Estate Commission