

Charlie Liem, Interim Secretary

Charlie Crist, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
April 20 and 21, 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; Claude "Chip" Boring, Darla Furst, Michael Guju, Ralph McCoig, and John Ruffier. 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: Maureen Olson, Deputy Secretary; Thomas O'Bryant, Jr., Director and Executive Director; James Harwood, Chief Attorney; Brad Koshland, Bureau Chief of Enforcement; Jennifer Blakeman, Patrick Cunningham, Robert Minarcin, Joseph Solla, Senior Attorneys; JoEllen Peacock, Education Coordinator; Jocelyn Pomales, Regulatory Specialist III; Steven Pitts, Investigator; Saghi Atkinson, Government Analyst; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court reporter services.

Chair Enzor welcomed newly appointed Commissioners Darla Furst and Chip Boring. Chair Enzor provided a brief summary of their credentials. Chair Enzor also congratulated Vice-Chair DeNapoli on his reappointment.

Director O'Bryant stated the Governor appointed two new Commissioners which fill the seven seats on Florida Real Estate Commission. Director O'Bryant provided a few instructions relating to the Sunshine Laws as all meetings are recorded and all conversations are public.

Director O'Bryant stated he talked with Commissioner Hornsleth yesterday, and one of the things he appreciated about Commissioner Hornsleth was his advocacy for the people of the State of Florida for equal housing opportunities. Director O'Bryant stated that Commissioner Hornsleth was a wonderful asset to the Commission. Commissioner Hornsleth apologized that he was not able to attend this meeting, but will attend in May.

Deputy Secretary Olson Addresses the Commission

Deputy Secretary Olson thanked the Commission for inviting her to speak with the Commissioners today. Deputy Secretary Olson stated she was here to provide the Commission an update regarding improvements within the Department during the last year. Deputy Secretary Olson provided a brief summary of the improvements which include, but not limited to website updates, application forms,

online services, average time in processing applications and improvements in the Customer Contact Center. Deputy Secretary Olsen asked the Commissioners to let her know if there was anything they would like to bring to the Department's attention. Deputy Secretary Olson addressed questions from the Commission.

Unlicensed Activity Report

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

Escrow Disbursement Orders

Attorney Joseph Solla presented 18 Escrow Disbursement Orders and 1 Order to interplead for the Commission's consideration. Mr. Solla stated that Tab B is changed from an Escrow Disbursement Order to an Order as the parties chose to settle in court. Upon recommendation of the Legal Section, the Commission issued 18 Escrow Disbursement Orders and 1 Order. Commissioner McCoig moved to approve the Legal Section recommendation. Vice-Chair DeNapoli seconded the motion. The motion carried unanimously.

Recovery Fund Claim Final Order

Blaise M. Mancini v. Jenny L. Heer f/k/a Jenny L. Vanover – DBPR Case No. 2010006095. Senior Attorney Solla presented this matter to the Commission. Claimant was present in support of the claim. Respondent was not present. Mr. Solla 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. Commissioner Guju moved to deny the claim. Commissioner Ruffier seconded the motion. The motion carried unanimously.

Carlos Casola and Marisol Casola v. Cristobal Marin – DBPR Case No. 2009030872. Senior Attorney Solla presented this matter to the Commission. Neither Claimant nor Respondent was present. Mr. Solla advised that the claimant qualifies statutorily to receive payment from the recovery fund and recommended the Commission approve the request. The Commission considered the facts. Vice-Chair DeNapoli moved to approve the claim. Commissioner McCoig seconded the motion. The motion carried unanimously.

Onkor Property Management, LLC d/b/a Gulf Sun Properties, LLC. v. Sharon L. Mills – DBPR Case No. 2009054135. Senior Attorney Solla presented this matter to the Commission. Neither Claimant nor Respondent was present. Mr. Solla 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. Commissioner Ruffier moved to approve the order to deny the claim. Commissioner McCoig seconded the motion. The motion carried unanimously.

Legal Final Order Docket

Tab Z – William R. Boose, BK 0008145, Case No. 2007052742 – Stipulation

Mr. Boose was present and represented by William Furlow, Esquire. 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 McCoig moved; seconded by Commissioner Guju to accept the Stipulation. Motion carried unanimously.

Penalty imposed: \$1,000.00 fine, \$577.50 costs, suspended until June 30, 2010, 6 months probation, attend one 2-day FREC meeting. **Violation:** Guilty of having been convicted or found guilty of or entered a plea of nolo contendere to, regardless of adjudication, a crime which directly relates to the activities of a licensed real estate broker or that involves moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(1)(f), Florida Statutes; and guilty of being confined in a state or federal prison thereby being in violation of Section 475.25(1)(n), Florida Statutes.

Action taken: Stipulation accepted.

Tab AA – Neil John Cresswell, BK 3139686, 3057688, 3171655, 3007747, 3106904, 3202377, 3186467, Case No. 2007055828 – Stipulation

Mr. Cresswell was not present and represented by Christopher Hewett, Esquire. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. Petitioner dismisses Counts III and IV of the Administrative Complaint. The Commission entered into discussion. Vice-Chair DeNapoli moved; seconded by Commissioner Guju to accept the Stipulation. Motion carried unanimously.

Penalty imposed: \$1,000.00 fine, \$495.00 costs, must attend one 2-day FREC meeting. **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 B – George Randolph Keys, SL 3139659, Case No. 2005058793 – Recommended Order, Exceptions

Respondent was present and represented by Daniel Villazon, 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. Mr. Cunningham filed exceptions on behalf of the Department. Mr. Cunningham presented Exceptions I and II to the Recommended Order of the Administrative Law Judge. The Commission entered into discussion. Mr. Cunningham withdrew Exception I. Commissioner Guju moved to accept the findings of fact and conclusions of law of the Recommended Order, seconded by Commissioner McCoig. The motion carried unanimously. Commissioner Guju moved to accept the Administrative Law Judge's Amended Recommended Order and to accept Exception II, relating to paragraphs 25 and 26 of the Recommended Order; seconded by Commissioner McCoig, motion carried unanimously. The Commission entered into discussion. Commissioner Guju moved that intent is not a required element and the Commission's conclusion of law is more reasonable than the Administrative Law Judge's conclusion in paragraphs 25 and

26 of the Amended Recommended Order; seconded by Vice-Chair DeNapoli moved to impose the penalty below. Motion passed 5 to 2.

Penalty imposed: \$1,000.00 fine, \$313.50 costs, 6 months suspension, 12 months probation, attend two 2-day Florida Real Estate Commission meetings. **Violation:** Guilty of failure to comply with the requirements of Rule 61J2-2.027(2) of the Florida Administrative Code and, therefore, is in violation of Section 475.25(1)(e), Florida Statutes.

Tab N – John C. Morales, ZH 1000567, Case No. 2008038536 – Respondent’s Second Request for Modification of Final Order

Mr. Morales was present and represented by Steven W. Johnson, 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. Mr. Johnson requested the Commission allow the Respondent to withdraw the Voluntary Surrender of License for Revocation dated February 11, 2010, and grant an extension to comply with the Order Granting Reconsideration, filed June 1, 2009. The Commission entered into discussion. Commissioner McCoig moved, seconded by Commissioner Guju to extend the time 6 months to comply with the Order Granting Reconsideration. The motion carried unanimously.

Action taken: Commission allowed the Respondent to withdraw the Voluntary Surrender of License and granted a 6 months extension to comply with the Order Granting Reconsideration, filed June 1, 2009, which provided for a \$500 fine, \$214.50 costs and attend two 2-day FREC meetings.

Tab A – Joaquin Inigo, BK, Case No. 2008031518 – Recommended Order, Exceptions

Ms. Inigo was present and represented by Steven W. Johnson, 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. Mr. Johnson presented Exceptions A – K. Commissioner Ruffier moved, seconded by Commissioner McCoig to reject Exception A (paragraph #28); motion carried unanimously. Commissioner Ruffier moved, seconded by Commissioner McCoig to reject Exception B (paragraph #29); motion carried unanimously. Commissioner Ruffier moved, seconded by Commissioner Furst to reject Exception C (paragraph #32); motion carried unanimously. Commissioner Ruffier moved, seconded by Vice-Chair DeNapoli to reject Exception D (paragraph #38); motion carried unanimously. Mr. Johnson withdrew Exception E (paragraph #49). Commissioner Ruffier moved, seconded by Commissioner McCoig to reject Exception F (paragraph #54); motion carried unanimously. Vice-Chair DeNapoli moved, seconded by Commissioner Ruffier to reject Exception G (paragraph #56); motion carried unanimously. Commissioner Ruffier moved, seconded by Vice-Chair DeNapoli to reject Exception H (paragraph #78); motion carried unanimously. Vice-Chair DeNapoli moved, seconded by Commissioner Ruffier to reject Exception I (paragraph #79); motion carried unanimously. Commissioner Ruffier moved, seconded by Vice-Chair DeNapoli to reject Exception J (paragraph #80); motion carried unanimously. Commissioner Ruffier moved, seconded by Commissioner McCoig to reject Exception K (recommendation of penalty); motion carried unanimously. The Commission considered the Recommended Order and entered into discussion. Commissioner McCoig moved, seconded by Commissioner Boring to adopt the Recommended Order and accept the

Administrative Law Judge's Findings of Facts and Conclusions of Law, however, modify the recommended penalty; motion passed 6 to 1.

Penalty imposed: 90-day suspension beginning 30 days from the filing date of the Final Order; \$1,000.00 fine, \$363.00 costs, 6 months probation, attend one 2-day FREC meeting. **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 C – Maria V. King, BK 662452, Case No. 2007004413 – Recommended Order

Ms. King was not present and represented by Daniel Villazon, 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. Neither party filed exceptions. The Commission considered the Recommended Order and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner McCoig to accept the Recommended Order; motion carried unanimously.

Action Taken: Case dismissed.

Tab Y – Matt John Raitz, SL 3092196, Case No. 2006043561 – Respondent's Request to Modify Final Order

Mr. Raitz was present and represented by Daniel Villazon, Esquire. No current members were recused due to participation on the probable cause panel.

Mr. Harwood represented the department and presented the case to the Commission. Mr. Villazon offered mitigation in support of the request. The Commission entered into discussion. Commissioner Ruffier moved, seconded by Commissioner McCoig to deny the Respondent's request to modify the Final Order. The motion passed 6 to 1.

Action taken: Modification request denied.

Tab H – Dennis Michael Di Vico, SL 3125023, Case No. 2009042883 – Respondent's Request for an Informal Hearing

Mr. Di Vico was present. Mr. Di Vico's is represented by Alexander Alfano, Esquire, who was not present. 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 Commissioners granted the informal hearing and entered into discussion. Commissioner McCoig moved, seconded by Commissioner Guju; motion carried unanimously to find the Respondent guilty as charged. Commissioner McCoig moved, seconded by Commissioner Guju; motion carried unanimously to impose the following sanctions:

Penalty imposed: \$198.00 costs, complete the 28-hour reactivation course. **Violation:** Guilty of having operated as a sales associate without being the holder of a valid and current license as a sales

associate in violation of Section 475.42 (1)(a), F.S. and, therefore, in violation of Section 475.42 (1)(e), F.S.

Tab K – Wendy Ann Lindquist, SL 3212541, Case No. 2009011064 – Respondent’s Request for an Informal Hearing

Ms. Lindquist was present and not represented by counsel. 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 Commissioners granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner Boring to dismiss the Administrative Complaint; motion carried unanimously.

Action Taken: Dismissed.

Tab AC – Jon Richard Penny, BK 3055942, Case No. 2008031179 – Stipulation

Mr. Penny was present and not represented by counsel. 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 entered into discussion. Vice-Chair DeNapoli moved; seconded by Vice-Chair DeNapoli to accept the Stipulation. Motion carried unanimously.

Penalty imposed: \$500.00 fine, \$940.50 costs, 6 months probation, attend two 2-day FREC meetings. **Violation:** Guilty of misrepresentation in any business transaction in violation of Section 475.25(1)(b), Florida Statutes.

Tab E – Alfonzo S. Angram, SL 3166528, Case No. 2009031161 – Petitioner’s Request for an Informal Hearing

Mr. Angram was not present and not represented by counsel. 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 Commissioners granted the informal hearing and entered into discussion. Commissioner Furst moved, seconded by Commissioner Guju; motion carried unanimously to find the Respondent guilty as charged. Commissioner Furst moved, seconded by Vice-Chair DeNapoli; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$204.60 costs. **Violation:** Guilty of failure to account or deliver funds in violation of Section 475.25(1)(d)1, F.S.; 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; 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 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 F –Ryan Dynamite Barton, SL 688800, Case No. 2008023035 – Respondent’s Request for an Extension of Time to Comply with Final Order

Mr. Barton 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 Guju moved, seconded by Vice-Chair DeNapoli; motion carried unanimously to grant a 90-day extension from the date of filing of this Order to complete the requirements of the Final Order.

Action Taken: Extension granted for 90 days.

Tab G – Alejandro Caso, SL 697223, Case No. 2004043112 – Respondent’s Request for an Extension of Time to Comply with Final Order

Mr. Caso was not present and not represented 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. The Commissioners granted the informal hearing and entered into discussion. Vice-Chair DeNapoli moved, seconded by Commissioner Ruffier; motion carried unanimously to grant a 6-month extension to complete the Final Order requirements.

Action Taken: Extension granted for 6 months.

Tab I – Herbert L. Ferrell, BK 484603, Case No. 2008013423 – Voluntary Surrender of Licensure for Permanent Revocation

Respondent was not present and not presented 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. Commissioner Furst moved, seconded by Commissioner Boring to accept the Affidavit for the Voluntary Surrender of License for Permanent Revocation; motion carried unanimously.

Penalty imposed: Revoked.

Tab J – Denny Hughes, BK 3036209, Case No. 2009019370; The Hughes Group Real Estate Services, Inc., CQ 1021763, Case No. 2009025922– Petitioner’s Request for an Informal Hearing

Mr. Hughes was not present and not represented by counsel. 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 Commissioners granted the informal hearing and entered into discussion. Vice-Chair DeNapoli moved, seconded by Commissioner Ruffier; motion carried unanimously to find the Respondents guilty as charged. Vice-Chair DeNapoli moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

Penalty imposed: Denny Hughes, revoke, \$386.10 costs; The Hughes Group Real Estate Services, Inc., revoke, \$181.50 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; guilty of failure to account or deliver funds in violation of Section 475.25(1)(d)1., Florida Statutes; guilty of failure to present all offers and counteroffers in a timely manner in violation of Section 475.278(2)(a)5, Florida Statutes, and, therefore, is in violation of Section 475.25(1)(e), Florida Statutes.

Tab L – Vicente Luz, BK 3083600, Case No. 2008011417 – Petitioner’s Request for an Informal Hearing

Mr. Luz 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 Furst; motion carried unanimously to find the Respondent guilty as charged. Commissioner Ruffier moved, seconded by Commissioner Boring; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$907.50 costs. **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 M – Marlon Bryant Mejia, BK 3110113, Case No. 2009017472 – Petitioner’s Request for an Informal Hearing

Mr. Mejia was not present and not represented by counsel. Commissioner Enzor 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 Ruffier moved, seconded by Commissioner Guju; motion carried unanimously to find the Respondent guilty as charged. Commissioner Ruffier moved, seconded by Commissioner Guju; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$488.40 costs. **Violation:** Guilty of aiding, assisting, procuring employing, or advising any unlicensed person or entity to practice a profession contrary to Chapter 455, 475 or the rules of the Petitioner in violation of Section 455.227 (1)(j), Florida Statutes; guilty of sharing a commission with, or paid a fee or other compensation to, a person not properly licensed as a broker, broker-salesperson, or salesperson under the laws of this state, for the referral of real estate business, clients, prospects, or customers, or for any one or more of the services set forth in Section 475.01(1)(a), F.S. and, therefore, in violation of Section 475.25(1)(h), F.S.

Tab P – Delfina Rodriguez, SL 3145390, Case No. 2009047149 – Respondent’s Request for an Informal Hearing

Ms. Rodriguez 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 Guju moved, seconded by Commissioner Boring to dismiss Count V of the Administrative Complaint relating to Respondent Rodriguez; motion carried unanimously.

Action Taken: Allegations against Respondent Rodriguez dismissed.

Tab Q –Patricia Maria Siewert, BK 675443, Case Nos. 2009041317 and 2009041234 – Voluntary Surrender of Licensure for Permanent Revocation

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

Mr. Cunningham represented the department and presented the case to the Commission. Commissioner Boring moved, seconded by Commissioner Furst to accept the Affidavit for the Voluntary Surrender of License for Permanent Revocation; motion carried unanimously.

Penalty imposed: Revoked.

Tab R – Marianna Simone, SL 3089971, Case No. 2008062008 – Petitioner’s Request for an Informal Hearing

Ms. Simone was not present and not represented by counsel. 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. Vice-Chair DeNapoli moved to find the Respondent guilty as charged; motion died for lack of second. Commissioner Furst moved, seconded by Commissioner Boring to dismiss the Administrative Complaint; motion carried unanimously.

Action Taken: Dismissed.

Tab S – Estes George Baxter, SL 3012774, Case No. 2007001237 – Respondent’s 4th Request for an Extension of Time to Comply with Final Order

Mr. Baxter was not present and not represented by counsel. No current members were 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

moved, seconded by Commissioner Guju; motion carried unanimously to grant a 9-month extension to complete the Final Order requirements.

Action Taken: Extension granted for 9 months.

Tab T – Keenan A. Bowers, SL 3203826, Case No. 2008033152 – Respondent’s Request for an Extension of Time to Comply with Final Order

Mr. Keenan was not present and not represented by counsel. Commissioner Ruffier 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 moved, seconded by Commissioner McCoig; motion carried unanimously to grant a 6-month extension to complete the Final Order requirements.

Action Taken: Extension granted for 6 months.

Tab U – Gustavo Christlieb, SL 622043, Case No. 2008023918 – Respondent’s Request for Reconsideration of Final Order

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 Commission entered into discussion. Commissioner Guju moved, seconded by Vice-Chair DeNapoli; motion carried to schedule the rehearing for June 22, 2010.

Action Taken: Hearing rescheduled for June.

Tab V – Elizabeth Ann Cooke, BK 3010400, Case Nos. 2008025908 and 2008025910 – Respondent’s 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. Harwood represented the department and presented the case to the Commission. The Commission entered into discussion. Vice-Chair DeNapoli moved, seconded by Commissioner Guju; motion carried unanimously to grant a 6 months extension from the date of filing of this Order to complete the requirements of the Final Order.

Action Taken: Extension granted for 6 months.

Tab W – Osbourne George Mowatt, BK 644844, Case No. 2007040787 and NuConcept Realty of N Dade, Inc., CQ1016782, Case No. 2007040790 – Respondent’s Request for an Extension of Time to Comply with Final Order

Mr. Mowatt was not present and not represented by counsel. Commissioner McCoig 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 Guju moved, seconded by Vice-Chair DeNapoli; motion carried unanimously to grant 12 months extension.

Action Taken: Extension granted for 12 months.

The following cases were continued or withdrawn

Tab D – Brahms Alexis
Tab O – Daniel M. Pfeiffer
Tab X – Christine A. Murphy
Tab AB – Gail Moncla

Approval of the Minutes

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

Rules Report

Mr. Barnhart, Counsel to the Florida Real Estate Commission, presented a rules report providing the status on the following rules:

61J2-3.011 – Continuing Education for School Instructors – Mr. Barnhart reported that initially the department wanted to address instructor renewal, however, with the changes to the data system, instructors are unable to renew without having completed the continuing education requirement. Director O’Bryant agreed and requested that this rule be removed from the rules report.

61J2-3.012 – Equivalency for Prelicensing Education – Mr. Barnhart reported the rule notice was submitted reflecting the changes the Commission approved to mirror the language set forth in Section 475.17(6), Florida Statutes.

61J2-3.013 – Distance Education Courses for Hardship Cases – Mr. Barnhart reported that the division requested to amend this rule to address hardship cases. Director O’Bryant stated that this rule is antiquated and should be amended to make it conducive to the statutory provisions of Chapter 475, Florida Statutes. Mr. Barnhart requested the Commission approve a rule workshop for this rule at a future meeting. Commission agreed.

61J2-3.015 – Notice of Satisfactory Course Completion – Mr. Barnhart reported that the Commission approved amending the language to reflect only the last 5 digits of the social security number and the rule notice has been published in the Florida Administrative Weekly.

61J2-3.020 – Post-Licensing Education for Active and Inactive Broker and Sales Associates Licensees – Mr. Barnhart reported that there was a rule development published in the Florida Administrative Weekly in July 2009, however, there have been no changes to date.

61J2-14.008 – Definitions – Mr. Barnhart reported that this rule has been noticed for rule development and should be effective at the end of May provided the Joint Administrative Procedures Committee has no objections.

61J2-17.014 – Guest Lecturers – Mr. Barnhart reported that this rule was withdrawn effective April 9, 2010.

61J2-24.001 – Disciplinary Guidelines – The Commission reviewed the penalties provided by Mr. Barnhart. Mr. Barnhart stated that the Joint Administrative Procedures Committee agreed to toll this rule to allow the Commission to review the amended language. Mr. Barnhart addressed comments from Director O’Bryant. The Commission made additional changes to the proposed language to address concerns of the Joint Administrative Procedures Committee. Mr. Barnhart stated he would make the changes and bring them back to the Commission for final approval of the Notice of Change.

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. Advance 1031 Issues – New Course – Application No. 12061

Ms. Kiernan did not appear in support of the new course. Commissioner Ruffier moved to deny without prejudice as there is not enough information to allow the Commission to determine whether it meets the requirements of Section 475.182, Florida Statutes; Commissioner Guju seconded the motion. The motion passed unanimously.

2. How to Buy Real Estate Investments in Your IRA – Renewal Course – Application No. 11825

Ms. Rivers did not appear in support of the renewal course. Vice-Chair DeNapoli moved to approve the continuing education course listed above as it meets the requirements of Section 475.182, Florida Statutes; Commissioner McCoig seconded the motion. The motion passed 6 to 1.

3. Reverse Mortgage – Yesterday, Today & Tomorrow – New Course – Application No. 12095

Mr. Conway appeared in support of the new course. 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 Boring seconded the motion. The motion carried unanimously.

Ratification of Suspended Licenses

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

There being no further business and no objection, the Chair adjourned the meeting at approximately 5:00 p.m.

April 21, 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 21st day of April, 2010.

Chair Roger Enzor, Vice-Chair Richard DeNapoli; Claude “Chip” Boring, Darla Furst, Michael Guju, Ralph McCoig, 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, James Harwood, Chief Attorney; 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.

Consent Agenda

The Commission considered 51 applicants from the Consent Agenda; Item AH was withdrawn; Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve 35 applicants and require 16 applicants to be placed on the Summary of Applicant Agenda; motion carried unanimously.

The following applicants were approved:

- | | | |
|-----------------------|----------------------|--------------------------|
| Ackerson, Pete | Alpern, Adrian | Bargaineer, Khrystopher |
| Bernhardt, Ernest F. | Brett, Judith E. | Britatina, Elena V. |
| Brown, Cheryl L. | Burton, Robert P. VI | Celler, Jaime |
| Dibacco, Rania C. | Eason, Heath B. | Fleischman, Abraham |
| Franke, Timothy S. | Gonzalez, Richard N. | Hartline, David |
| Higbee, Charles R. | Kelly, Patrick B. | Lafferty, Adam H. |
| LaFountain, Brenda A. | Lucas, Brian | Miller, Michael P Sr. |
| Moore, Michael H. | Mroz, Michael J. | Mullins, William Francis |
| Perets, Nir David | Peterson, Elaine M. | Radeschi, John A Jr. |
| Richard, Michael R. | Santos, Alberto | Sovko, Denise L. |
| Thompson, Phillip T. | Tucker, Elizabeth B. | Vining, Donald Q. |
| Vokac, Roberta | Zabinsky, Heather M | |

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

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|-----------------------|--------------------|-------------------------------|
| Barber, William J. | Bell, John Clayton | Camejo, Adelaida |
| Cesaire, Patrick | Clay, Scott C. | Del Pozzo, David M. |
| Eastman, Stephanie A. | Fisher, Carla | Frey, James K. |
| Gordon, Tanasa | Lopez, Maria L | McGuire Richerzhagen, Suzanne |
| Murray, Bradley A | Nemi, Said | Norbeck, Brandon L |
| Stegmann, Louis | | |

Summary of Applicants

Director Thomas O’Bryant, Jr. presented 41 Summary of Applicants requesting to sit for the real estate examination.

Tab O – Dominguez, Paula J.; present; represented by Attorney Daniel Villazon – Commissioner Ruffier moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab AT – McCarthy, Kevin; present; represented by Attorney Daniel Villazon – Commissioner Guju moved; seconded by Commissioner McCoig to approve the application for broker; motion carried unanimously.

Tab AW – Murray, Theodore A.; present, represented by Attorney Daniel Villazon – Commissioner McCoig moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab BH – Servais, Richard B.; not present; represented by Attorney Daniel Villazon – Mr. Villazon withdrew the application and waived the 90-day requirement.

Tab A – Ayala Acosta, Wilbert; present – Commissioner Guju moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab B – Baker, Gregory M.; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab C – Bombinski, Brian P.; present – Commissioner McCoig moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab D – Cadavid, Luis F.; not present; Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab E – Casagni, John D.; present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab F – Castro, Carlos A.; not present – Vice-Chair DeNapoli moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried unanimously.

Tab G – Christensen, Keith T.; not present – Commissioner Furst moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab H – Cowrie, Abraham; not present – Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab I – Dale, Daryl; present – Commissioner Guju moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab J – Daljajev, Denis; present – Commissioner Guju moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab K – Daruvalla, Nariman S.; present – Commissioner Guju moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab L – Davis, Ronald E.; present – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab M – Deis, Carlos A.; present – Commissioner McCoig moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab N – Deler, Mark A.; present – Commissioner Ruffier moved, seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab P – Doran, John J.; present – Commissioner Guju moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried unanimously.

Tab Q – Doscher, Scott M.; present – Application withdrawn and waived 90-day requirement.

Tab R – Doyle, Mark; present – Vice-Chair DeNapoli moved, seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab S – Eisnaugle, Tracy Lynn; present – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab T – Field, Pixie L.; not present – Commissioner Guju moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab U – Fix, Jason A.; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab V – Forestier, Dimas A.; present – Commissioner McCoig moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab W – Fox, James H.; present – Commissioner McCoig moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab X – Freeman, Roy M.; not present – Commissioner Ruffier moved; seconded by Commissioner Guju to deny the application for sales associate; motion carried unanimously.

Tab Y – Gallo, Michael; present – Commissioner Guju moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab Z – Goudy, Louis A.; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab AA – Griffin, Ralph Ray Jr.; present – Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab AB – Grimes, Lynn L.; present – Commissioner Guju moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab AC – Guttmann, Michael; present – Application withdrawn and waived 90-day requirement.

Tab AD – Heid, Randall S.; present – Commissioner Guju moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab AE – Henthorn, Christopher; present – Commissioner Guju moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried unanimously.

Tab AF – Hopkins, Mark W.; present – Commissioner Guju moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried unanimously.

Tab AG – Hyde, Ryan A.; present – Commissioner Ruffier moved; seconded by Commissioner Guju to deny the application for sales associate; motion carried unanimously.

Tab AH – Johnson, Kelly P.; present – Commissioner Boring moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab AI – Johnson, Tichawonna; present – Commissioner Guju moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab AJ – Joyce, Lynne M.; present – Commissioner McCoig moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab AK – Keirs, John P.; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab AL – Lancheros, Rafael I.; present – Commissioner McCoig moved; seconded by Commissioner Boring to approve the application for sales associate; motion passed 6 to 1.

Tab AM – Lawrence, Dwayne T.; not present – Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab AN – Lopez, Ricardo; present – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab AO – Love, Brian A.; not present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab AP – Lumley-Anthony, Jason; present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab AQ – Maribona, Bernardo; present – Commissioner Boring moved; seconded by Commissioner Furst to deny the application for sales associate; motion carried unanimously.

Tab AR – Masse, Neil E.; present – Vice-Chair DeNapoli moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab AS – Mazuera, Sisi Castro; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab AU – Mohebpour, Arvin; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab AV – Francisco, Morales; present – Vice-Chair DeNapoli moved; seconded by Commissioner Boring to deny the application for sales associate; motion carried unanimously.

Tab AX – Neal, Maggie; present – Commissioner Ruffier moved; seconded by Commissioner Guju to approve the application; motion carried unanimously.

Tab AY – Nieves, Oliva R.; present – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab AZ – Perryman, Ynette; present – Commissioner Guju; seconded by Commissioner Furst to deny the application for sales associate; motion carried unanimously.

Tab BA – Ramey, Bradley J.; present – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve the application for broker; motion carried unanimously.

Tab BB – Rossen, Leon L.; present – Commissioner Guju moved; seconded by Commissioner McCoig to approve the application for sales associate; motion passed 6 to 1.

Tab BC – Rothlein, Glenda D.; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab BD – Rovecamp, Heather A.; present – Vice-Chair DeNapoli moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab BE – Sagastume, Felipe S.; present – Commissioner McCoig moved; seconded by Vice-Chair DeNapoli to deny the application for sales associate; motion carried unanimously.

Tab BF – Santiago, David; present – Commissioner Ruffier moved; seconded by Commissioner Guju to approve the application; motion carried unanimously.

Tab BG – Sause, Christopher M.; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab BI – Svetliak, Kristopher V.; not present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application; motion carried unanimously.

Tab BJ – Tedesco, Joseph M., present – Commissioner Furst moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab BK – Tiffany, Mona; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab BL – Travis, Raymond; present – Vice-Chair DeNapoli moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab BM – Ulyanitskaya, Natalya; not present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab BN – Van Engelen, John F.; not present – Commissioner Furst moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion passed 4 to 3.

Tab BO – Warnock, Michael J.; present – Commissioner Furst moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried unanimously.

Tab BP – Widdifield, Eric G.; not present – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to deny the application for sales associate; motion carried unanimously.

Tab BQ – Wilson, Richard J.; present – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab BR – Wilson, Stephanie M.; present – Commissioner Furst moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Director's Comments

Rule 61J2-24.006 – Probation

Director O'Bryant requested the Commission provide suggestions to expand the language to paragraph 2 relating to economic and medical hardships as well as expand 90 days to 180 days. Commissioner Ruffier suggested to simply state hardship and agreed that 180 days is sufficient. Commissioner Guju concurred and suggested the language include a reference to an initial request. Director O'Bryant requested that Mr. Barnhart notice this rule for rule development for the next meeting. Vice-Chair DeNapoli suggested also revisiting paragraph 4. Director O'Bryant stated that he will bring the revised language before the Commission for its review at the next meeting.

Rule 61J2-24.004 – Mediation

Director O'Bryant reported that the division has been inundated with complaints and the number of cases it investigates. The Director further reported that the Legislature is again asking the department to cut more money from the budget. Therefore, the division is looking at how to save more money without cutting staff and one of the areas the division is looking at is using mediation. Director O'Bryant reported the department uses mediation in construction and the division would also like to explore the mediation avenue to resolve cases more effectively, efficiently and in a timelier manner. Director O'Bryant requested that the Commission look at expanding the division's authority to resolve cases through mediation to save money while still protecting the public and which would also benefit the licensees and department. Director O'Bryant stated that he would provide a copy of the rules the other professions use. Director O'Bryant addressed questions from the Commission. Commissioner Guju stated that he has been exposed to mediation for years and believes it is an excellent idea and urged Director O'Bryant to explore this avenue. The Commission directed Director O'Bryant to move forward.

Commission Remarks

Chair Enzor thanked the staff for their hard work. Chair Enzor asked the Commissioners to submit their receipts in a timely manner.

Commissioner Furst stated that it has been a pleasant experience and has felt welcomed as part of the team. Commissioner Boring concurred.

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 May 18 and 19, 2010, in Orlando, Florida.

Roger Enzor, Chair
Florida Real Estate Commission

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