

Ken Lawson, Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
April 17 and 18, 2012
General Meeting**

Chair Darla Furst called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, Florida, on this 17th day of April, 2012.

The following Commission members were in attendance: Chair Darla Furst, Richard DeNapoli, Roger Enzor, Michael Guju, Poul Hornsleth and Josh Podolsky. Vice-Chair Boring was excused. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Department and Division staff present at the meeting: Juana C. Watkins, Director; Patrick Cunningham, Chief Attorney; Christina Arzillo, Megan Demartini, Andrew Fier, LaDawna Fleckenstein, Leigh Matchett, Assistant General Counsel; Jocelyn Pomales, Operation Management Consult II; JoEllen Peacock, Education Coordinator; Susan Bailey, Administrative Assistant II; Johanne Knudson, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407)-896-1813 provided court reporter services.

Approval of the Minutes

Commissioner Guju moved; seconded by Commissioner Hornsleth to approve the Minutes of the March 20 and 21, 2012, General Meeting, as written. Motion passed without dissent.

Unlicensed Activity Report

Director Watkins presented the Unlicensed Activity Report and addressed questions and comments from the Commission.

Monthly Exam Performance Summary Report

Director Watkins presented the monthly Exam Performance Summary Report and addressed questions and comments from the Commission.

Financial Statements Ending December 31, 2011

Director Watkins presented the Financial Reports for the Operating, Unlicensed Activity, Education and Research Foundation and Recovery Fund accounts and the Call Center and Central Intake Unit Allocated Costs for the twelve months ending December 31, 2011. Director Watkins addressed questions and comments from the Commission.

Report Regarding Enforcement Trends

Director Watkins presented the Report Regarding Complaint Trends and addressed questions and comments from the Commission.

Report Regarding Office Inspection/Escrow Audits

Director Watkins reported that the Office Inspection/Escrow Audits are making headway and that Mr. LeTarte will provide a detailed report next month.

Report Regarding Legal Case Activity

Chief Attorney Cunningham presented the monthly report regarding legal case activity and stated that he anticipates the numbers will continue to trend downwards. Chief Attorney Cunningham addressed comments and questions from the Commission.

Legal Final Order Docket

Tab W – Margit Oertel-Ayguen, SL 696114, Case No. 2011003960 – Settlement Stipulation

Respondent not present and represented by Heather Rutecki, Esquire, present. No current members were recused due to participation on the probable cause panel.

Mr. Fier represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner DeNapoli moved; seconded by Commissioner Podolsky to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: \$500.00 fine, \$755.70 costs within 6 months from the Effective Date of the Final Order, attend one 2-day FREC meeting; **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes, by committing culpable negligence. Respondent negligently relied on a building association manager's misrepresentation of a statute's application.

Action taken: Settlement Stipulation accepted.

Tab Z – Carmen Marina Redondo, BK 630786, Case No. 2011003966 – Settlement Stipulation

Respondent not present and represented by Heather Rutecki, Esquire, present. No current members were recused due to participation on the probable cause panel.

Mr. Fier represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Enzor moved; seconded by Commissioner Podolsky to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: \$750.00 fine, \$755.70 costs within 6 months from the Effective Date of the Final Order, attend one 2-day FREC meeting; **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes, by committing culpable negligence. Respondent failed to adequately supervise a sales associate who negligently relied on a building association manager's misrepresentation of a statute's application.

Action taken: Settlement Stipulation accepted.

Tab C – Michael Joseph Chadwick, BK 2022678, Case No. 2010038277 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was present and represented by David Rankin, Esquire, also present. Commissioner Guju was recused due to participation on the probable cause panel.

Ms. Demartini represented the Department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Mr. Rankin requested a continuance on behalf of the Respondent. Commissioner Hornsleth moved, seconded by Commission DeNapoli; motion passed without dissent to deny the continuance. Commissioner Enzor moved; seconded by Commissioner Hornsleth; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Enzor moved, seconded by Commissioner Podolsky; motion passed without dissent to impose the following sanctions:

Action Taken: Suspension for 5 years, \$1,000.00, \$496.65 costs, 6 months probation. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, when Respondent plead guilty to one count of conspiracy to commit mail and wire fraud, a crime which involves fraudulent or dishonest dealings.

Agenda B, Tab A – Bridget Lynn Massey, SL 691728, Case No. 2010043422 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was present and was represented by Lars Soreide, Esquire, also present. Vice-Chair Boring and Commissioner Hornsleth served on the probable cause panel. Commission Hornsleth was recused due to participation on the probable cause panel. Vice-Chair Boring was excused and not in attendance.

Ms. Matchett represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner DeNapoli moved, seconded by Commissioner Enzor; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner DeNapoli moved, seconded by Commissioner Podolsky; motion passed without dissent to impose the following sanctions:

Action Taken: Suspension for 6 months, \$500.00 fine, \$297.00 investigative costs. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, when she entered a plea of nolo contendere to Grand Theft in the Second degree in Circuit Court in and for Broward County, Florida.

Tab H – Stephen Marabel, BK 381024, Case No. 2011003063 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

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

Ms. Demartini represented the department and presented the case to the Commission. Counsel for Respondent objected to the informal hearing and disputed material facts contained within the Administrative Complaint. The Commission entered into discussion. Commissioner Hornsleth moved, seconded by Commissioner DeNapoli, motion passed without dissent to deny the informal hearing. Commissioner DeNapoli moved, seconded by Commissioner Podolsky; motion passed without dissent to refer the case to the Division of Administrative Hearings (DOAH).

Action Taken: Informal hearing denied; Case referred to DOAH.

Tab R, Tab S, Tab T – Theresia Marie Helton, BK 3077530, Case Nos. 2009020275, 2010031610, 2011018510 – Motion to Set Aside Final Order

Respondent was present and represented by Daniel Villazon, Esquire, also present. Vice-Chair Boring served on the probable cause panel. Vice-Chair Boring was excused and was not in attendance.

Ms. Arzillo represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner DeNapoli moved, seconded by Commissioner Podolsky; motion passed without dissent to set aside the Final Order filed March 22, 2012, and refer the case to the Division of Administrative Hearings (DOAH).

Action Taken: Final Order set aside; Cases referred to DOAH

Tab X – Zoraya Prada, BK 654162, Case No. 2010050762 – Settlement Stipulation

Respondent was not present and represented by Daniel Villazon, Esquire, also present. Commissioner DeNapoli was recused due to participation on the probable cause panel.

Ms. Demartini represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Enzor moved; seconded by Commissioner Guju to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: \$500.00 fine, complete a 4-hour escrow management course; **Violation:** Respondent violated Section 475.25(1)(k), Florida Statutes, in that Respondent's office manager received a deposit without Respondent's knowledge and failed to timely deposit the funds with the designated title company. Respondent's company does not maintain an escrow account. Respondent does not deny that it was her responsibility as a broker to ensure that the funds were immediately deposited.

Action taken: Settlement Stipulation accepted.

Tab AC – Wayne E. Vaughan, BK 3240874, BK 3240874, Case No. 2011006125 – Settlement Stipulation

Respondent was not present and represented by Daniel Villazon, Esquire, present. Vice-Chair Boring served on the probable cause panel. Vice-Chair Boring was excused and was not in attendance.

Ms. Demartini represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Enzor moved; seconded by Commissioner Podolsky to accept the Stipulated Settlement. The motion passed 5 to 1.

Penalty imposed: Suspended for 6 months beginning the filing date of the Final Order, \$1,000.00 fine, \$825.00 costs, attend an escrow management class; **Violation:** Respondent violated Section 475.25(1)(e), Florida Statutes, by violating Rule 61J2-14.012(2), Florida Administrative Code.

Action taken: Settlement Stipulation accepted.

Tab AD – Madelyn Anabet Andrade, SL 3186831, Case No. 2011038614 – Petitioner's Motion for Finding of Waiver and Enter a Final Order

Respondent was present and not represented by counsel. Vice-Chair Boring served on the probable cause panel. Vice-Chair Boring was excused and not in attendance.

Ms. Matchett represented the department and presented the case to the Commission. The Commission granted the waiver hearing and entered into discussion. Commissioner Enzor moved, seconded by Commissioner DeNapoli; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner DeNapoli moved, seconded by Commissioner Guju; motion passed 5 to 1 to impose the following sanctions:

Penalty imposed: Suspension 4 months, \$500.00 fine, \$288.75 costs within 4 months from the effective date of the Final Order. **Violation:** Respondent violated a lawful order issued under the provisions of Chapter 455 or 475, Florida Statutes.

Tab A – Sheri R. Barry, BK 375978, Case No. 2009021587 – Respondent’s Request for Reinstatement of License

Respondent was present and not represented by counsel. Commissioner Hornsleth 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 Enzor, seconded by Commissioner Podolsky; motion passed 4 to 1 to deny the request for reinstatement of real estate license.

Action Taken: Reconsideration request denied.

Tab M – Warren H. Newell, SL 347150, Case No. 2008033896 – Respondent’s Request for Reconsideration of the Final Order

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

Mr. Fier represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Hornsleth moved, seconded by Commissioner Podolsky; motion passed 4 to 1 to vacate the Final Order.

Action Taken: Final Order vacated.

General Session continued

Discussion Regarding FREC-Related Bureau of Education & Testing Matters

Director Watkins introduced Mr. Gus Ashoo, Bureau Chief and Mr. Alex Bosque, Examination Development Specialist Supervisor. Mr. Ashoo stated they would greatly appreciate the Commissions’ participation in the exam review and asked when one or two Commissioners would be available to review a sampling of the examination questions. Mr. Ashoo reported that Mr. Bosque has been working very diligently on the real estate examinations, including the instruction examination. Mr. Bosque provided additional details relating to the examination updates. Mr. Ashoo addressed additional questions and comments from the Commission.

Legal Final Order Docket continued

Tab B – Chris Cadenhead, BK 272037, Case No. 2012009675 – Voluntary Relinquishment of License

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

Ms. Matchett represented the department and presented the case to the Commission. Commissioner Hornsleth moved, seconded by Commissioner DeNapoli to accept the Voluntary Relinquishment of License. The motion passed without dissent.

Action Taken: Commission accepted the Voluntary Relinquishment of License.

Tab E – Florida Homes International, Inc., CQ 1014020, Case No. 2010041502 – Voluntary Relinquishment of License

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

Ms. Matchett represented the department and presented the case to the Commission. Commissioner Hornsleth moved, seconded by Commissioner DeNapoli to accept the Voluntary Relinquishment of License. The motion passed without dissent.

Action Taken: Commission accepted the Voluntary Relinquishment of License.

Tab G – Bruce Edward Manny, BL 384027, Case No. 2011012584 – Voluntary Relinquishment of License

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

Mr. Fier represented the department and presented the case to the Commission. Commissioner DeNapoli moved, seconded by Commissioner Enzor to accept the Voluntary Relinquishment of License. The motion passed without dissent.

Action Taken: Commission accepted the Voluntary Relinquishment of License.

Tab N – Lucian Popescu, BK 3054722, Case No. 2009020646 – Petitioner's Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

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

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

Action Taken: Revocation, \$10,000.00 fine, \$371.25 investigative costs. **Violation:** Respondent violated Section 475.25 (1)(d)1, when Respondent failed to account or deliver to any person, including a licensee

under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft; violated Section 475.25(1)(b) Florida Statutes, by failing to forward Complainant's rental funds, for which Respondent maintained no ownership interest.

Tab O – Lucian Popescu, BK 3054722, Case No. 2009024819 – Petitioner's Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

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

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

Action Taken: Revocation, \$10,000.00 fine, \$394.35 investigative costs. **Violation:** Respondent violated Section 475.25 (1)(d)1, when Respondent failed to account or deliver to any person, including a licensee under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft; violated Section 475.25(1)(b) Florida Statutes, by failing to forward Complainant's rental funds, for which Respondent maintained no ownership interest.

Tab P – Lucian Popescu, BK 3054722, Case No. 2010000838 – Petitioner's Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

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

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

Action Taken: Revocation, \$10,000.00 fine, \$387.75 investigative costs. **Violation:** Respondent violated Section 475.25 (1)(d)1, when Respondent failed to account or deliver to any person, including a licensee under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft; violated Section 475.25(1)(b) Florida Statutes, by failing to forward Complainant's rental funds; for which Respondent maintained no ownership interest.

Tab V – Michelle Gonzalez, BK 702537, Case No. 2009064001 – Stipulated Settlement

Respondent was not present and not represented by counsel. Vice-Chair Boring served on the probable cause panel. Vice-Chair Boring was excused and not in attendance.

Ms. Arzillo represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to deny the Settlement Stipulation. The motion passed without dissent.

Action taken: Settlement Stipulation denied.

Tab Y – Carl Presto, BK 3022910, Case No. 2010019545 – Stipulated Settlement

Respondent was not present and was represented by Guy Shir, Esquire, not present. No current members served on the probable cause panel.

Ms. Fleckenstein represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Enzor moved; seconded by Commissioner Podolsky to deny the Settlement Stipulation. The motion passed without dissent.

Action taken: Settlement Stipulation denied.

Tab AA – Diane Lisa Ryan, SL 439471, Case No. 2008026327 – Stipulated Settlement

Respondent was not present and was represented by Gary Nagle, Esquire, not present. Commissioner DeNapoli was recused due to participation on the probable cause panel.

Ms. Fleckenstein represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Enzor moved; seconded by Commissioner Podolsky to deny the Settlement Stipulation. The motion passed without dissent.

Action taken: Settlement Stipulation denied.

Tab AB – Carlos Manuel Sanchez, SL 3058272, Case No. 2011011796 – Stipulated Settlement

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

Ms. Matchett represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Enzor moved; seconded by Commissioner DeNapoli to deny the Settlement Stipulation. The motion passed without dissent.

Action taken: Settlement Stipulation denied.

Tab AE – Yolanda M. Concepcion, BK 347264, Case No. 2009062025 – Petitioner's Motion for Finding of Waiver and Enter a Final Order

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

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

Action Taken: Revocation, \$2,000.00 fine, \$504.90 investigative costs. **Violation:** Respondent violated Section 475.25(1)(d)1, Florida Statutes (2009), when Respondent failed to account for a \$1,500.00 security deposit held in escrow and properly submit the dispute to the Department; violated Section 455.227(1)(r),

Florida Statutes (2009), by failing to produce requested documentation of the property transaction and proof that the security deposit is still being held in escrow.

Tab AF – Damian Courtland Cook, SL 3028555, Case No. 2009022646 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

Respondent was present and not represented by counsel. Vice-Chair Boring served on the probable cause panel. Vice-Chair Boring was excused and not in attendance.

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

Action Taken: Revocation, \$1,000.00 fine, \$1,031.25 investigative costs. **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes, by conveying fraudulent information and actively making misrepresentations; violated Section 475.278(3)(a), Florida Statutes, by failing to disclose to Complainant that Corporation owned Subject Property; violated Section 475.42(1)(j), Florida Statutes, by placing in public record a contract with false and unauthorized information.

Tab AG – Robbie J. Hughes, SL 3092961, Case No. 2010001378 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

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

Ms. Arzillo represented the department and presented the case to the Commission. The Commission granted the waiver hearing and entered into discussion. The Petitioner dropped Counts II, III and IV. Commissioner Hornsleth moved, seconded by Commissioner Podolsky; motion carried unanimously to find the Respondent guilty of Count I as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Commissioner Podolsky; motion carried without dissent to impose the following sanctions:

Action Taken: Revocation, \$1,000.00 fine, \$877.70 investigative costs. **Violation:** Respondent violated Section 475.42(1)(b), Florida Statutes, when Respondent operated as a broker for Corporation or himself and not Respondent’s registered employers.

Tab AH – Frank Morales, Jr., BK 3075790, Case No. 2009045228 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

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

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

Action Taken: Revocation, \$3,000.00 fine, \$594.70 investigative costs. **Violation:** Respondent violated Section 475.25 (1)(d) and 475.25(1)(b), Florida Statutes, by failing to reimburse Ms. Vidal for her security

deposit and homeowner's association fees and when he failed to return Ms. Vidal's money; violated Section 475.25(1)(e), Florida Statutes (2008), by doing business as Global International Realty, Inc. without maintaining an active license for the company pursuant to 61J2-5.019(1), Florida Administrative Code (2008).

Tab AI – Ocean Int'l Realty, Inc., CQ 1010939, Case No. 2009062027 – Petitioner's Motion for Finding of Waiver and Enter a Final Order

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

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

Action Taken: Revocation, \$2,000.00 fine, \$508.20 investigative costs. **Violation:** Respondent violated Section 475.25(1)(d)1, Florida Statutes (2009), when Respondent failed to account for a \$1,500.00 security deposit held in escrow and properly submit the dispute to the Department; violated Section 455.227(1)(r), Florida Statutes (2009), by failing to produce requested documentation of the property transaction and proof that the security deposit is still being held in escrow.

Tab AJ – Michael L. Ramos, BK 686519, Case No. 2010014732 – Petitioner's Motion for Finding of Waiver and Enter a Final Order

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

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

Action Taken: Revocation, \$330.00 investigative costs. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, by entering a plea and being found guilty in the United States District Court, Southern District of Florida, Miami Division, of Conspiracy to commit Bank Fraud; violated Section 475.25(1)(p), Florida Statutes, by failing to inform the Commission in writing within 30 days after entering a guilty plea and being adjudicated guilty of Conspiracy to commit Bank Fraud; violated Section 475.25(1)(n), Florida Statutes, by being imprisoned at the Atlanta United States Penitentiary following guilty adjudication of Conspiracy to commit Bank Fraud.

Tab AK – Risk Management Realty, Inc., CQ 1032666, Case No. 2009033742 – Petitioner's Motion for Finding of Waiver and Enter a Final Order

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

Ms. Fleckenstein represented the department and presented the case to the Commission. The Commission granted the waiver hearing and entered into discussion. Commissioner Hornsleth moved, seconded by

Commissioner Guju; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Commissioner Guju; motion carried without dissent to impose the following sanctions:

Action Taken: Revocation, \$5,000.00 fine, \$198.00 investigative costs. **Violation:** Respondent violated Section 475.25(1)(d), Florida Statutes, by failing to remit payment to Cunningham-Codner and by failing to create and maintain a record of that payment.

Tab AL – Rick Dean Sturtevant, BK 3078550, Case No. 2010000211 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

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

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

Action Taken: Revocation, \$1,000.00 fine, \$214.50 investigative costs. **Violation:** Respondent violated a lawful order issued under the provisions of Chapter 455 or 475, Florida Statutes.

Tab AM – Jamie Ann Williams, BK 404031, Case No. 201005370 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

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

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

Penalty imposed: Revocation, \$3,500.00 fine, \$313.00 investigative costs. **Violation:** Respondent violated 475.25(1)(b), Florida Statutes, by concealing material information from Buyer, thereby misrepresenting the condition of the advertised parcel of land; violated Section 475.25 (1)(d)1, by failing to account for, or deliver, funds that were placed into Respondent’s brokerage account.

The following cases were continued or withdrawn

- Tab D – Serge A. Ferrer, Case No. 2010015157
- Tab F – Alicia Garcia, Case No. 2011054246
- Tab J – Luis A. Monsalve, Case No. 2011003027
- Tab K – Luis A. Monsalve, Case No. 2011015101
- Tab L – Luis A. Monsalve, Case No. 2011017733
- Tab Q – Henry Roger, Case No. 2010008588
- Tab U – Paul N. Brownell, Case No. 2010021903

General Session continued

Review and Consideration of the Real Estate Continuing Education Courses

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

1. Social Media "How To" for the Real Estate Professional – New Course (3 hours) – Application No. 16041 – Dr. Eugene Gibbins, Gibbins School of Real Estate & Technology, LLC

Dr. Gibbins appeared in support of the new course. The Commission entered into discussion. Dr. Gibbins waived his 90-day requirement and requested a continuance to amend the course. Commissioner DeNapoli moved; Commissioner Podolsky seconded to continue the course for up to 6 months. The motion passed without dissent.

2. Social Media "How To" for the Real Estate Professional – New Course (4 hours) – Application No. 16042 – Dr. Eugene Gibbins, Gibbins School of Real Estate & Technology, LLC

Dr. Gibbins appeared in support of the new course. The Commission entered into discussion. Dr. Gibbins waived his 90-day requirement and requested a continuance to amend the course. Commissioner DeNapoli moved; Commissioner Podolsky seconded to continue the course for up to 6 months. The motion passed without dissent.

There being no further business and no objection, the Chair adjourned the meeting at approximately 5:10 p.m.

April 18, 2012

Chair Darla Furst reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, on this 18th day of April, 2012.

The following Commission members were in attendance: Chair Darla Furst, Richard DeNapoli, Roger Enzor, Michael Guju, Poul Hornsleth and Josh Podolsky. Vice-Chair Boring was excused. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Department and Division staff present at the meeting: Juana C. Watkins, Director; Patrick Cunningham, Chief Attorney; Jocelyn Pomaes, Operations Management Consultant II; JoEllen Peacock, Education Coordinator; Jeannie Adkinson, Regulatory Specialist III; Susan Bailey, Administrative Assistant II; Johanne Knudson, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court reporter services.

Summary of Applicants

OMC II Jocelyn Pomaes presented 56 Summary of Applicants requesting to sit for the real estate examination.

Tab B – Jazayri, Melissa, present; represented by Lars Soreide, Esquire, present – informal hearing – Applicant withdrew the request for an information hearing.

Tab L – Beauchard, Beckner, present; represented by Barry Wax, Esquire, present – Commissioner Guju moved; seconded by Commissioner Hornsleth to approve the application for sales associate; the vote tied 3 to 3; the motion is lost and no action was taken.

Tab AH – Hough, Thomas, present – Applicant withdrew application and waived the 90-day requirement.

Tab A – Allen, Aaron, present – Commissioner Podolsky moved, seconded by Commissioner DeNapoli to conduct an informal hearing; the motion passed without dissent. Commissioner DeNapoli moved, seconded by Commissioner Podolsky to vacate the Notice of Intent to Deny the Commission previously entered regarding the application for sales associate. Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab C – McCone, Kenya, present – informal hearing – Commissioner Podolsky moved; seconded by Commissioner Hornsleth to vacate the Notice of Intent to Deny the Commission previously entered regarding the application for broker and approve the application; motion passed 5 to 1.

Tab D – Meyeraan, Ross P., present – informal hearing – Commissioner DeNapoli moved; seconded by Commissioner Hornsleth to vacate the Notice of Intent to Deny the Commission previously entered regarding the application for sales associate and approve the application; motion carried without dissent.

Tab E – Shearer, Christopher, not present – Applicant withdrew application. Commissioner DeNapoli moved; seconded by Commissioner Guju to vacate the Notice of Intent to Deny the Commission previously entered regarding the application for broker. The motion passed without dissent.

Tab F – Afrooz, Peter E.T., not present – Applicant withdrew application and waived the 90-day requirement.

Tab G – Alexander, Clifford R., not present – Commissioner Podolsky moved; seconded by Commissioner Guju to deny the application for sales associate; the motion passed without dissent.

Tab H – Amador, Frank N., present – Commissioner Enzor moved; seconded by Commissioner DeNapoli to approve the application for sales associate; the motion passed without dissent.

Tab I – Armwood, Gwendolyn, present – Applicant withdrew application and waived the 90-day requirement.

Tab J – Auricchio, John, not present – Commissioner Enzor moved; seconded by Commissioner DeNapoli to deny the application for sales associate; the motion passed without dissent.

Tab K – Baber, William S, Jr., present – Applicant withdrew application and waived the 90-day requirement.

Tab M – Capua, Anthony F., present – Commissioner Podolsky moved; seconded by Commissioner DeNapoli to approve the application for sales associate; the motion passed without dissent.

Tab N – Chambers, Robert J., not present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab O – Chapman, Vicki, present – Applicant withdrew application and waived the 90-day requirement.

Tab P – Claircius, Max, present; Applicant withdrew application and waived the 90-day requirement.

Tab Q – Clarke, Luis E., not present – Commissioner Enzor moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab R – Cobb, Matthew, not present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab S – Collins, Patrick, not present – Commissioner DeNapoli moved; seconded by Commissioner Guju to deny the application for sales associate; the motion passed without dissent.

Tab T – Diaz, Airam E., present – Commissioner Enzor moved; seconded by Commissioner Guju to approve the application for sales associate; the motion passed without dissent..

Tab U – Diaz, Armando, not present – Commissioner Hornsleth moved; seconded by Commissioner Enzor to deny the application for broker; the motion passed without dissent.

Tab V – Faranda, Brittany, not present – Commissioner DeNapoli moved; seconded by Commissioner Hornsleth to approve the application for sales associate; the motion passed 5 to 1.

Tab W – Farquhar, Robert, present – Applicant withdrew the application and waived the 90-day requirement.

Tab X – Fis, Rafael R., present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab Y – Gonzalez, Michael S., not present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab Z – Gonzalez, Jose I., present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to deny the application for sales associate; the motion passed without dissent.

Tab AA – Hannachi, Sofiane M., present – Applicant withdrew the application and waived the 90-day requirement.

Tab AB – Harriton, Charles, present – Commissioner Podolsky moved; seconded by Commissioner Hornsleth to approve the application for sales associate; the motion passed without dissent.

Tab AC – Hartley, Angeline, not present – Applicant withdrew the application and waived the 90-day requirement.

Tab AD – Hayes, Richard G., not present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to deny the application for sales associate; the motion passed without dissent.

Tab AE – Hill, William I. Billy, Jr., present; Applicant withdrew the application and waived the 90-day requirement.

Tab AF – Hochman, Robert, not present – Commissioner Enzor moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab AG – Hose, Charles R., III, present – Commissioner Podolsky moved; seconded by Commissioner DeNapoli to approve the application for sales associate; the motion passed without dissent.

Tab AI – Jones, Erika C., not present – Commissioner Enzor moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab AJ – Justin, Mural, not present – Commissioner Enzor moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab AK – Kennedy, Lorraine E., present – Commissioner Guju moved; seconded by Commissioner Enzor to approve the application for sales associate; the motion passed without dissent.

Tab AL – Lettieri, James, present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to deny the application for sales associate; the motion passed without dissent.

Tab AM – Maffucci, Steven, present – Commissioner Hornsleth moved; seconded by Commissioner Guju to deny the application for sales associate; the motion passed without dissent.

Tab AN – Malave, Domitila R., not present – Applicant requested a continuance. Applicant waived the 90-day requirement previously. Commissioner Podolsky moved; seconded by Commission Guju to grant a continuance; the motion passed without dissent.

Tab AO – Malone, Timothy M., present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to deny the application for broker; the motion passed without dissent.

Tab AP – Marcum, Dan B., present – Commissioner Hornsleth moved; seconded by Commissioner Guju to approve the application for sales associate; the motion passed without dissent.

Tab AQ – McAuslin, Ian, present – Applicant withdrew the application and waived the 90-day requirement.

Tab AR – McHenry, Steven F., present – Applicant withdrew the application and waived the 90-day requirement.

Tab AS – McKesson, Molly, present – Applicant withdrew application and waived the 90-day requirement.

Tab AT – Orjuela, Freddy E., present – Applicant withdrew the application and waived the 90-day requirement.

Tab AU – Pasquini, Patricia J., not present – Applicant withdrew the application and waived the 90-day requirement.

Tab AV – Petty, Richard F., Jr., present – Commissioner Guju moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab AW – Rodriguez, Maivi M., not present – Commissioner DeNapoli moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab AX – Rosa, Rochely, present – Applicant withdrew the application and waived the 90-day requirement.

Tab AY – Santacruz, Jose A., not present – Commissioner Enzor moved; seconded by Commissioner Podolsky to deny the application for broker; the motion passed without dissent.

Tab AZ – Scott, Valerie, not present – Applicant requested a continuance and waived the 90-day requirement. Commissioner DeNapoli moved; seconded by Commissioner Podolsky to grant a continuance to May 16, 2012; the motion passed without dissent.

Tab BA – Speno, Edward J., not present; represented by Daniel Villazon, Esquire, not present – Applicant withdrew application and waived the 90-day requirement.

Tab BB – Stappenbacher, Shannon, present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to approve the application for sales associate; the motion passed 4 to 2.

Tab BC – Suereth, Timothy J., not present – Applicant withdrew the application.

Tab BD – Wagnon, Daniel H., not present – Applicant withdrew the application.

Consent Agenda

The Commission considered 127 applicants from the Consent Agenda; Commissioner Hornsleth moved; seconded by Commissioner Guju to approve 95 applicants and require 32 applicants to be placed on the Summary of Applicant Agenda; the motion passed without dissent.

The following applicants were approved:

Abrego, Sergio	Fitzgibbon, John II	Nunez, Anita
Arntz, Nichole	Garcia, Gennifer Linda	Palumbo, Jon
Avila, Nelson	Garcia, Piero	Parks, Michael
Barker, Casey	Gardner, Christopher	Perez, Victor
Bendana, Francisco	Ghosh, Benjamin	Phillips, Jason
Benson, Nathaniel	Gleason, Kevin	Piorno, Fabian
Bertolotti, Giovanni	Grice, James	Proezna, Renay
Betancourt, Elizabeth	Guercio, Dennis	Pucci, Adriano
Bieule, Sebastian	Gutierrez, Jeanette	Quina, Joanne
Blair, James	Hinds, Christopher	Ramos, Eddi
Blount, Toni	Horberg, Donald	Rawls, Philip
Brabham, William	Huffman, Ralph	Richter, Ronald
Brew, Eden	Irizarry, Argi	Roberts, Sidney
Brown, Douglas	Jahan, Kiarash	Rodgers, Samuel Jr.
Burke, Russell	Jahn, Theodore III	Rodriquez, Adam
Candelaria, Natacha	Jorgensen, Kenneth	Rogacki, Desiree
Caudill, James	Joseph, Aniele	Romero, Ricardo
Cedeno, Carol	Jozdani, Yasaman	Samudio, Mayra
Champion, Anita	Karras, Paul	Sanchez, Omar
Coit, Russell	Krakovski, Roman	Santomenno, Robert
Cole, Marion	Lee, Susan	Scuderi, Wendy
Compagnone, Anthony	Leonard, Judith	Smith, Frank
Crisp, William	Lynch, Gerald	Smith, Sherry
Daiello, Thomas	Maloy, Marilyn	Starr, Pamela
Del Valle, Alberto	Matos, Rosa	Symmes, Gregory
Denboef, Gregory	Maynor, Richard	Walker, Robert
DeShields, John	McCann, Kenneth	Whiteside, William
Diaz Deleon, Laura	Melendy, Susan	Willig, Joan
Dinh, Phung	Michaels, Erica	Wooley, Maerilu
Dirks, Ryan	Mir, Yaylem	Zielinski, Christian
Donato, Jose	Moore, Johnny	Zielinski, Paul
Drake Gary	Noel, Robins	

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

Ard, Joseph	Gray, Troy	Pappas, Alexandros Jr.
Arena, Vincent	Hammonds, Sony	Patterson, Sharon
Barkett, John	Hawley, Gerald	Santiago, Luis
Bohannon, Deshane	Hendrix, Jack	Santiago, Sabra
Cosentino, Paul	Keeney, Susan	Serur, Luis
Danziger, Jeanette	Laprade, David	Uglem, Chad
Davila, Alberto	Livermore, Pamela	Vanwagner, William
Flikshteyn, Alexander	Marquez, Julio	Ventura, Luis
Gay, Ashley	Osborn, Josef	Weber, Florence
Glover, Richey	Ottensmann, James	Zuniga, Carlos
Golsen, Gene	Pabla, Surinder	

General Session continued

Biennial Rule Review – 61J2 – Florida Real Estate Commission

The purpose of this rule review is to determine which rules may require changes to ensure compliance with the newly adopted statutory changes, which will be properly noticed in the Florida Administrative Weekly for a rule development workshop.

The Commission completed a full review of Florida Administrative Code Chapter 61J2 and recommended the following rules be scheduled for a rule development workshop:

- ◆ 1.0155 – New rule to establish guidelines pursuant to statutory changes relating to exemptions for Veterans from initial licensure and application fees.
- ◆ 1.016 – Review of Fees
- ◆ 2.027 – Applications by Individuals
- ◆ 2.031 – Where to Apply (for repeal)
- ◆ 3.013 – Distance Education Courses for Hardship Cases
- ◆ 5.018 – Vacancies of Office
- ◆ 10.022 – Office
- ◆ 10.038 – Mailing Address
- ◆ 14.008 – Definitions
- ◆ 14.009 – Real Estate Sales Associate
- ◆ 20.009 – Probable Cause Panel
- ◆ 24.001 – Disciplinary Guidelines
- ◆ 24.002 – Citation Authority

Review and Consideration of the Real Estate Continuing Education Courses

RIS Media's Social Media Marketing Certification Course – New Course – Application No. 16351 – Cherolyn Fogarty; Walk the Talk Presentations

There were no appearances 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 set forth in Section 475.182(1), Florida Statutes; Commissioner Podolsky seconded the motion. The motion passed without dissent.

Introduction to Complex Appraisal Assignments – New Course – Application No. 16357 – Jackie Vincent, McKissock, LP

There were no appearances in support of the new course. The Commission entered into discussion. Commissioner DeNapoli moved to deny the continuing education course listed above as it does not meet the requirements set forth in Section 475.182(1), Florida Statutes; Commissioner Podolsky seconded the motion. The motion passed without dissent.

Special Agenda

Correspondence received from Bob MacCuspie

Director Watkins presented a letter received from Bob MacCuspie requesting the Commission reconsider live streaming the FREC meetings. The Commission thanked Mr. MacCuspie for his comments.

Correspondence received from Stephanie Ann Walters

Director Watkins presented a letter received from Stephanie Ann Walters requesting the Commission allow her to reinstate her real estate license. Ms. Walters did not appear in support of her request. The Commission reviewed the supporting documentation and entered into discussion. Commissioner Hornsleth moved, seconded by Commissioner DeNapoli to allow Ms. Walters to complete the 28-hour reactivation course and pay all required fees by August 30, 2012, based on hardship. The motion passed 5 to 1.

Director's Comments

Director Watkins reported that the department is seeing an increase in real estate applications.

Commission's Comments

Chair Furst reported that she and Director Watkins recently attended the Sarasota Chapter of the Women's Council of Realtors Business Resource Meeting as guest speakers and stated that Director Watkins is a great representation for the department.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 2:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for May 15 and 16, 2012, in Orlando, Florida.



Darla Furst, Chair
Florida Real Estate Commission



Juana C. Watkins, Director
Florida Real Estate Commission