

Ken Lawson, Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
June 19 and 20, 2012
General Meeting**

Chair Darla Furst called the meeting of the Florida Real Estate Commission to order, at approximately 8:40 a.m., in Orlando, Florida, on this 19th day of June, 2012.

The following Commission members were in attendance: Chair Darla Furst, Richard DeNapoli, Roger Enzor, Michael Guju, Poul Hornsleth and Josh Podolsky. 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: Ken Lawson, Secretary; Juana C. Watkins, Director; Gus Ashoo, Bureau Chief of Education and Testing; Alex Bosque, Examination Development Specialist Supervisor; Patrick Cunningham, Chief Attorney; Christina Arzillo, Megan Demartini, Andrew Fier, LaDawna Fleckenstein, Leigh Matchett and Josh Kendrick, Assistant General Counsel; Jocelyn Pomales, Operation Management Consult II; JoEllen Peacock, Education Coordinator; Susan Bailey, Administrative Assistant II; Johanne Knudsen, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court services.

Approval of the Minutes

Commissioner Enzor moved; seconded by Commissioner DeNapoli to approve the Minutes of the May 15 and 16, 2012, General Meeting, as written. The motion passed without dissent.

Secretary Lawson

Secretary Ken Lawson addressed the Commissioners and thanked them for their service on behalf of Governor Scott. Secretary Lawson state he was here to address any questions or concerns the Commissioners may have. Vice-Chair Boring commented that the division staff that they work with on a regular basis has been very responsive and informative in addressing many of the concerns the Commissioners may and they are pleased. Chair Furst stated that she wanted to give accolades to the investigative staff in bringing the numbers of cases in investigation down and stated that she was pleased to see that we have reduced those cases within the department. Secretary Lawson and Director Watkins addressed additional comments and questions from the Commission. Last, Secretary Lawson reported that the department is going to host its first real estate fraud conference on October 26, 2012, which may count as credit for continuing education for real estate licensees, real estate appraisers and Florida Bar members. Secretary Lawson stated that the focus will be on financial crimes in the real estate market, trends and case studies to assist in protecting the industry. The department will send notice out to interested parties via email. Chair Furst thanked Secretary Lawson for his presentation and attending the FREC meeting.

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. Director Watkins stated that Gus Ashoo, Bureau Chief and Alex Bosque, Examination Review Specialist Supervisor was present to address any questions or concerns the Commission may have relating to the examinations.

Chair Furst reported that she and Vice-Chair Boring participated in an examination review. Chair Furst stated that after reviewing the examination she feels the test is fair and current and wanted to applaud the Bureau of Education staff. Mr. Ashoo thanked Chair Furst for her comments and appreciates being able to address general perception relating to the examinations. Mr. Ashoo stated that the Bureau of Testing and Education has its own website under "Continuing Education and Testing" which provides a lot of useful information. Mr. Ashoo further stated that they encourage comments from the Commission, education providers and the public in providing suggestions that be even more helpful to them. Mr. Ashoo also wanted to thank the two consultants, Patti Ketchum and Linda Dykes, who participated in reviewing the content of the examinations and did a wonderful job. Chair Furst stated that she wanted to address the myth relating to the real estate examinations in Spanish and assure everyone that those exams are updated as well. Mr. Ashoo and Mr. Bosque addressed questions and comments from the Commission and members of the audience. The Commission thanked them for their presentation.

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 presented the report regarding Office Inspection/Escrow Audits and addressed questions and comments from the Commission.

Report Regarding Legal Case Activity

Chief Attorney Cunningham presented the monthly report regarding legal case activity and stated that the cases have been reduced and that they will continue to work through the cases. Chief Attorney Cunningham addressed comments and questions from the Commission. Chair Furst inquired whether there was any mechanism in place to triage cases to identify potentially serious allegations involving fraud or harm. Director Watkins stated that this issue has been a topic of ongoing discussion of how to establish a priority notification in the electronic format. Chair Furst thanked Director Watkins for her response.

Legal Agenda Schedule

Escrow Disbursement Orders

Assistant General Counsel Joseph Solla presented 19 Escrow Disbursement Orders for the Commission's consideration. Commissioner Boring moved to accept the 19 Escrow Disbursement Orders, with the amendment to Tab F. Commissioner DeNapoli seconded the motion. The motion passed without dissent.

Recovery Fund Claim

Tab A – Gianabel Fernandez v. Noelvis Gamez, DBPR Case No. 2011039410

Neither Claimant nor Licensee was present. Assistant General Counsel Solla presented this matter to the Commission. 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 and circumstances. Commissioner Hornsleth moved to approve the order granting the claim in the amount of \$24,000.00. Commissioner Podolsky seconded the motion. The motion passed without dissent.

Tab B – Mayra Duran and Donal Teruel v. Noelvis Gamez, DBPR Case No. 2011040449

Neither Claimant nor Licensee was present. Assistant General Counsel Solla presented this matter to the Commission. 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 and circumstances. Commissioner Hornsleth moved to approve the order granting the claim in the amount of \$21,500.00. Commissioner Podolsky seconded the motion. The motion passed without dissent.

Tab C – Gilbert Jean-Jacques v. Olman Mentor, DBPR Case No. 2012000922

Neither Claimant nor Licensee was present. Assistant General Counsel Solla presented this matter to the Commission. Mr. Solla advised that the Claimant does not qualify statutorily to receive payment from the recovery fund and recommended the Commission approve the request. The Commission considered the facts and circumstances. Commissioner DeNapoli moved to approve the order denying the claim. Commissioner Podolsky seconded the motion. The motion passed without dissent.

Applicant Recommended Order

Tab A – David Torres v. DBPR, Florida Real Estate Commission – DOAH Case No. 11-6204

FREC Counsel Tom Barnhart presented the Recommended Order of the Administrative Law Judge. Petitioner was not present. The Commission and Mr. Barnhart entered into discussion. Upon request of the Commission, Chair Furst tabled this discussion until the end of today or if time does not permit table until tomorrow.

Legal Final Order Docket

Tab AI – Nancy Stone, BK 85470, Case No. 2010044669 – Settlement Stipulation

Respondent was not present and represented by Bryan Keifer, Esquire, 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 entered into discussion. Commissioner Podolsky moved; seconded by Vice-Chair Boring to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: \$1,500.00 fine, \$500.00 investigative costs, complete a 4-hour escrow management course within 6 months from the Effective Date of the Final Order and attend one 2-day FREC meeting within 12 months from the Effective Date of the Final Order; **Violation:** Respondent violated Section 475.25(1)(e), Florida Statutes, by violating Rule 61J2-14.012(2), Florida Administrative Code, by failing to

include required information on Nancy Stone Realty's monthly reconciliation statements; when Respondent falsified or included false information in Subject Property's transaction records; violated Section 475.25(1)(e), Florida Statutes, by violating Rule 61J2-14.012(3), Florida Administrative Code, when Respondent failed to explain negative balances in the rental distribution account, failed to describe what corrective action was taken, and failed to carry prior monthly balances forward.

Action taken: Settlement Stipulation accepted.

Tab AK, AL, AM, AN – Scott C. Daniels, BK 675274, Case Nos. 2010046507, 2010051146, 2010058572 and 2010062624 – Respondent's Request for Reconsideration of the Final Order

Respondent was not present and represented by Michael Quarequio, Esquire, present. Vice-Chair Boring was recused due to participation on the probable cause panel.

Ms. Arzillo represented the department and presented the cases to the Commission. Commissioner Enzor moved to deny the request for reconsideration of the Final Order, seconded by Commissioner Guju; motion failed 2 to 4. Commissioner Podolsky moved to vacate the previous Final Order issued April 12, 2012 and reduce the fines; seconded by Commissioner Hornsleth. The motion passed without dissent to impose the following:

Action Taken: Previous Final Order vacated. **Penalty imposed:** Revocation, \$11,250.00 fine. **Violation:** Respondent violated Section 475.25(1)(d)1, Florida Statutes, when Respondent failed to account or deliver deposit to Complainant; violated Section 475.25(1)(b), Florida Statutes, by acting with culpable negligence when Respondent was not able to prevent the loss of deposit; violated Section 475.5015, Florida Statutes, by failing to keep and maintain records pertaining to Respondent's real estate brokerage business; violated Rule 61J2-14.010(1), Florida Administrative Code, by failing to immediately place Complainant's check into an escrow or trust account.

Tab AH – Neybis Veronica Sanchez-Antoniuzzi, BK 3021711, Case No. 2008023972 – Settlement Stipulation

Respondent was present and represented by Nancy Campiglia, Esquire, also present. Vice-Chair Boring and Commissioner Guju 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 Podolsky moved; seconded by Commissioner DeNapoli to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: \$1,000.00 fine, costs, attend two 2-day FREC meetings, complete one in-class 60-hour post-licensure course. **Violation:** Respondent violated Section 475.25(1)(e), Florida Statutes, by failing to make brokerage records available and hindering the Department's investigation.

Action taken: Settlement Stipulation accepted.

Tab AC – Paul N. Brownell – BK 3026060, Case No. 2010021903 – Settlement Stipulation

Respondent was present and represented by Daniel Villazon, Esquire, also present. Chair Furst 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 Hornsleth moved; seconded by Commissioner DeNapoli to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: Suspension for 9 months, \$3,000.00 fine, investigative costs, attend one 2-day FREC meetings, attend an escrow management class. **Violation:** Respondent violated Section 475.25(1)(b) and 475.5015, Florida Statutes, violated Section 475.25(1)(e), Florida Statutes by violating Rules 61J2-14.010(1) and 61J2014.012, Florida Administrative Code.

Action taken: Settlement Stipulation accepted.

Tab AD – Joanne E. Fitzgerald – SL 3132874, Case No. 2008052882 – Settlement Stipulation

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

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

Penalty imposed: \$500.00 fine, investigative costs, complete a 30-hour broker management course. **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes (2007), when Respondent misrepresented herself as a broker and by holding out her brokerage as a legal real estate business entity.

Action taken: Settlement Stipulation accepted.

Tab N – Paulina O. Lam, SL 3169193, Case No. 2010022058 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was 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 Vice-Chair Boring; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Vice-Chair Boring; motion passed without dissent to impose the following sanctions:

Action Taken: Suspension for 1 year, \$1,000.00 fine, investigative costs, complete a 28-hour reactivation continuing education course, attend one 2-day FREC meeting, 1 year probation. **Violation:** Respondent violated Section 475.25(1)(p), Florida Statutes, when Respondent failed to inform the Florida Real Estate Commission in writing within 30 days about the entry of three guilty pleas for second and third degree felony charges.

Tab K – Jack Fecko, SL 643084, Case No. 2010035406 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing; Respondent’s Request for an Extension of Time to Comply with the Previous Final Order

Respondent was 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 informal hearing and entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner Boring to dismiss the Administrative Complaint; motion passed without dissent. Commissioner Hornsleth moved, seconded by Commissioner Guju; motion passed without dissent to modify the previous Final Order filed February 12, 2009, Case No. 2008024237, waiving the \$250.00 fine and imposing the following sanctions:

Action Taken: Investigative costs, attend one 2-day FREC meeting, 6 months probation.

Tab A – Kamal S. Salim, SL 3100213, Case No. 2010012226 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was present and not represented by counsel. Commissioner Podolsky was 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 DeNapoli; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Vice-Chair Boring moved, seconded by Commissioner Hornsleth; motion passed without dissent to impose the following sanctions:

Action Taken: Suspension for 3 months, \$1,500.00, investigative costs, complete a 28-hour reactivation course, 6 months probation. **Violation:** Respondent violated Section 475.42(1)(d), Florida Statutes, when Respondent accepted a deposit check in his own name absent explicit authorization; violated Section 475.25(1)(k), Florida Statutes, when Respondent failed to immediately place the February 2, 2009, deposit check with his registered employer.

Tab AX – Mauricio Herrera, SL 3120467, Case No. 2011041195 – Settlement Stipulation

Respondent was 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 entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner Podolsky to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: Suspension for 30 days, \$1,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, when Respondent pled guilty to Cannabis/Sell/Man/Deliver/Possess w/Intent in Case No. F09-038206, a Third Degree Felony and was found guilty of Cannabis/Traf/ >25 but < 2000LBS/300 or > Plants in Case No. F10-001290A, a First Degree Felony in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, which involve moral turpitude; violated Section 475.25(1)(p), Florida Statutes, when Respondent failed to notify the Division in writing 30 days after pleading guilty to Cannabis/Sell/Man/Deliver/Possess w/ Intent in Case No. F09-038206, a Third Degree Felony or being convicted of Cannabis/Traf/ >25 but < 2000LBS/300 or > Plants in Case No. F10-001290A, a First Degree Felony.

Action taken: Settlement Stipulation accepted.

Agenda A, Tab W; Agenda B, Tab D – Raymond Anthony Phillips, BK 3002987, BK 3232102, BK 3208852, Case No. 2010000936 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was 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 informal hearing and entered into discussion. Commissioner Guju moved; seconded by Commissioner Hornsleth; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Guju moved, seconded by Commissioner Hornsleth; motion passed without dissent to impose the following sanctions:

Action Taken: Revocation, 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 acting culpably negligent in handling Complainant’s escrow deposit.

Tab AJ – Mariselle Caridad Alvarez, SL 3063948, Case No. 2009055184 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

Respondent was 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 waiver hearing and entered into discussion. Commissioner Hornsleth moved, seconded by Vice-Chair Boring; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Vice-Chair Boring; motion passed without dissent to impose the following sanctions:

Penalty imposed: Suspension for 3 years, \$2,000.00 fine, investigative costs, one 2-day FREC meeting, 3 years probation concurrent with suspension. **Violation:** Respondent violated Section 475.25 (1)(p), Florida Statutes, by failing to inform the Florida Real Estate Commission, in writing, within thirty (30) days of entering a guilty plea for third degree felony grand theft; violated Section 475.25 (1)(f), Florida Statutes, by being adjudicated guilty of petit theft and grand theft, which are crimes involving moral turpitude, fraud, or dishonest dealing.

Agenda A, Tab AB; Agenda B, Tab F – Vincent Tony Sammarco, BK 440989, Case No. 2009024308 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was 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 informal hearing and entered into discussion. Commissioner Guju moved; seconded by Commissioner Podolsky; motion passed without dissent to find the Respondent guilty of Count III as charged in the Administrative Complaint. Commissioner Guju moved, seconded by Commissioner Podolsky; motion passed without dissent to impose the following sanctions:

Action Taken: Suspension 5 years, investigative costs. **Violation:** Respondent Section 475.25(1)(s), Florida Statutes, when Respondent was disbarred as an attorney by the Florida Supreme Court.

Tab C – William Earl Whittington SL 630512, Case No. 2011024826 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was present and not represented by counsel. Commissioner Podolsky was 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 DeNapoli; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Guju moved, seconded by Vice-Chair Boring; motion passed without dissent to impose the following sanctions:

Action Taken: Suspension 60 days from the date of Filing of the Final Order, \$250 fine, \$503.25 investigative costs, 12 months probation. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, by being found guilty in the United States District Court of the Northern District of Florida, Panama City Division for Theft of Government Funds.

Agenda A, Tab M; Agenda B, Tab C – Shajuania Jenkins Howard, BK 690591, Case No. 2010016484 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

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 granted the informal hearing and entered into discussion. Mr. Fier advised the Commission that Ms. Howard has completed all requirements of the underlying Final Order. Commissioner Hornsleth moved; seconded by Commissioner Enzor; motion passed without dissent to dismiss the Administrative Complaint.

Action Taken: Administrative Complaint dismissed.

Tab F – Milton H. Barbarosh, SL 533258, Case No. 2010030045 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was 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 informal hearing and entered into discussion. Commissioner Podolsky moved; seconded by Commissioner Hornsleth; motion passed 5 to 1 to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Podolsky moved, seconded by Commissioner Hornsleth; motion passed without dissent to impose the following sanctions:

Action Taken: Investigative costs, complete a 3-hour ethics course, 6 months probation. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, by being found guilty in the United States District Court, Southern District of Florida, of conspiracy to commit wire, mail and securities fraud.

General Session continued

Rule Development Workshop

Rule 61J2-14.008 – Definitions

Director Watkins presented this rule for the Commission's review and discussion upon request of David Collins. Mr. Collins requested to discuss the issue of the earnest money deposit as it relates to the deposit being held by attorneys or title companies. The Commission entered into discussion. Director Watkins and Mr. Barnhart addressed questions and comments from the Commission. Director Watkins suggested that this issue be discussed with a representative from Florida Realtors and then bring this rule back before the Commission.

Legal Appearance Docket continued

Tab B – Richard S. Rubin, BK 319309, Case No. 2011023595 – Petitioner's Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was not present and not represented by counsel. Commissioner Podolsky was 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 Hornsleth moved; seconded by Commissioner DeNapoli; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Commissioner Enzor; motion passed without dissent to impose the following sanctions:

Action Taken: Revocation, \$1,500.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, by being convicted of a crime that involves fraudulent or dishonest dealings; violated Section 475.25(1)(n), Florida Statutes by being confined in a state or federal prison.

Tab D – Anthony Renard Ammons, BK 472902, Case No. 2011055232 – 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. Fleckenstein 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 for permanent revocation.

Tab E – Raffi Astwasatourian, SL 699909, Case No. 2011058917 – 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. Fleckenstein 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 for permanent revocation.

Agenda A, Tab G; Agenda B, Tab A – Margelly Beltran, SL 3084332, Case No. 2009045176 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

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

Ms. Matchett 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 passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Commissioner DeNapoli; motion passed without dissent to impose the following sanctions:

Action Taken: \$500.00, investigative costs, two 2-day FREC meetings, complete a 28-hour reactivation course, 1 year probation. **Violation:** Respondent violated Section 475.25(1)(e), Florida Statutes, and thereby Section 475.42(1)(a), Florida Statutes, when Respondent submitted and offer for another and expected to receive compensation for her real estate services while her license was in inactive status; violated Section 475.42(1)(b), Florida Statutes, by operating as a broker while licensed as a sales associate and therefore in violation of Section 475.25(1)(e), Florida Statutes.

Tab H – Christopher Allen Blanton, SL 3102506, Case No. 2010024938 – Request for Stay of Final Order

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. The Commission entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner DeNapoli; motion passed without dissent to deny the Respondent’s request for stay of penalty of the Final Order.

Action Taken: Stay denied.

Tab I – Debra Ellen Cunningham, BK 594092, Case No. 2011036065 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was not present and not represented by counsel. Commissioner Podolsky was recused due to participation on the probable cause panel. Commissioner Hornsleth recused himself from participation of this matter.

Ms. Demartini 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 Enzor; motion passed without dissent to impose the following sanctions:

Action Taken: Reprimand, investigative costs, 28-hour reactivation course, 6 months probation. **Violation:** Respondent violated Section 475.25(1)(e), Florida Statutes, by violating Rule 61J2-14.008(2)(b), Florida Administrative Code, by failing to include a name, address and telephone number of a title company on the sale and purchase contract.

Agenda A, Tab J; Agenda B, Tab B – Manuel Alberto De La Fuente, SL 571270, Case No. 2010002882 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

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 informal hearing and entered into discussion. Commissioner Podolsky moved; seconded by Vice-Chair Boring; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Podolsky moved, seconded by Commissioner Enzor; motion passed without dissent to impose the following sanctions:

Action Taken: Suspension for 5 years, \$1,000.00 fine, investigative costs, two 2-day FREC meetings, 1 year probation. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, by entering a plea of nolo contendere to grand theft in the third degree and forgery; violated Section 475.25(1)(p), Florida Statutes, by failing to inform the Commission in writing within 30 days after being convicted guilty of grand theft in the third degree and forgery.

Tab O – Barbara D. Lockett, SL 3021127, Case No. 2011018099 – 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. Arzillo 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 for permanent revocation.

Tab P – Gerardo Magallon, SL 3107017, Case No. 2008061970 – Respondent’s Request for a Reconsideration of the Final Order

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

Mr. Cunningham represented the Department and presented the case to the Commission. The Commission entered into discussion. Commissioner DeNapoli moved; seconded by Commissioner Enzor; motion passed without dissent to deny the Respondent’s request.

Action Taken: Reconsideration request denied.

Tab R – Jerome Mitchell, SL 667258 Case No. 2011033097 – Respondent’s Request for a Continuance; Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

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

Mr. Kendrick represented the department and presented the case to the Commission. Commissioner Guju moved, seconded by Commissioner Podolsky; motion passed without dissent to deny the Respondent’s Request for Continuance. The Commission granted the informal hearing and entered into discussion. Commissioner Guju moved, seconded by Commissioner Podolsky; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Guju moved, seconded by Vice-Chair Boring; motion passed without dissent to impose the following sanctions:

Action Taken: Revocation, investigative costs. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes; violated Section 475.25(1)(n), Florida Statutes, because Respondent is confined in federal prison.

Tab V– Frank Morales, Jr., BK 3075790, Case No. 2010013698 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was not present and not represented by counsel. Commissioner DeNapoli was 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 Hornsleth moved; seconded by Commissioner Podolsky; motion passed without dissent to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Commissioner Podolsky; motion passed without dissent to impose the following sanctions:

Action Taken: Revocation, \$5,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(d)1, Florida Statutes, 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.

Tab X – Lucian Popescu, BK 3054722, Case No. 2009022591 – 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.

Mr. Kendrick 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 Vice-Chair Boring; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Vice-Chair Boring; motion passed without dissent to impose the following sanctions:

Penalty imposed: Revocation, \$5,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25 (1)(k), Florida Statutes (2008), when he failed to hold in trust the funds for a security deposit and rent payment.

Tab Y – Leslie Sue Potter, SL 3186058, Case No. 2011003606 – Petitioner’s Request for an Informal Hearing

Respondent was not present and not represented by counsel. Commissioner Podolsky was 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 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 Enzor; motion passed without dissent to impose the following sanctions:

Penalty imposed: Revocation, \$2,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.42(1)(b), Florida Statutes, by operating as a broker while licensed as a sales associate; violated Section 455.227(1)(j), Florida Statutes, by aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

Agenda A, Tab AA; Agenda B, Tab E – Frank Rhoden, P.A., SL 557575, Case No. 2009046171 – Recommended Order

Respondent was not present and not represented by counsel. Commissioner DeNapoli 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 Guju; motion passed without dissent to adopt the Administrative Law Judge’s Findings of Fact and Conclusions of Law. Commissioner Hornsleth moved, seconded by Commissioner Guju; motion passed without dissent to issue a Final Order finding the Respondent guilty of Count II of the Administrative Complaint and impose the following sanctions:

Action Taken: Suspension for 6 months, \$1,500.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes, when Respondent moved personal property into the Subject property.

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

June 20, 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 20th day of June, 2012.

The following Commission members were in attendance: Chair Darla Furst, Vice-Chair Chip Boring, Richard DeNapoli, Roger Enzor, Michael Guju, Poul Hornsleth and Josh Podolsky. 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: Denise Johnson, Deputy Director; Patrick Cunningham, Chief Attorney; Andrew Fier, Assistant General Counsel; Jocelyn Pomales, Operations Management Consultant II; JoEllen Peacock, Education Coordinator; Jeannie Adkinson, Regulatory

Specialist III; 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 35 Summary of Applicants requesting to sit for the real estate examination.

Tab G – Bispo, Christopher C., present; represented by Bob Dwyer, Esquire, also present – Applicant withdrew application and waived the 90-day requirement.

Tab K – Curriden, Cameron R., present; represented by Daniel Villazon, Esquire, also present – Commissioner Enzor moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab A – Betsinger, Matthew James, not present – informal hearing – The Commission granted the informal hearing and entered into discussion. Commissioner Podolsky moved; seconded by Commissioner DeNapoli to uphold the Notice of Intent to Deny the Commission previously entered regarding the application for sales associate; the motion passed without dissent.

Tab B – Collins, Patrick, not present – informal hearing – The Commission granted the informal hearing and entered into discussion. Commissioner DeNapoli moved; seconded by Commissioner Podolsky to uphold the Notice of Intent to Deny the Commission previously entered regarding the application for sales associate; the motion passed without dissent.

Tab C – Nadeau, Joann, present – informal hearing – Commissioner Hornsleth moved, seconded by Commissioner DeNapoli to vacate the Notice of Intent to Deny the Commission previously entered regarding the application for broker; the motion passed 5 to 2.

Tab D – Bajwa, Nasir, not present – Commissioner Podolski moved; seconded by Commissioner Enzor to deny the application for broker; the motion passed without dissent.

Tab E – Benzan, Johnny, present – Commissioner Enzor moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab F – Berringer, Thomas, not present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to approve the application for sales associate; the motion passed 5 to 2.

Tab H – Buker, Amy L., present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab I – Colan, Thomas, present – Commissioner Hornsleth moved; seconded by Commissioner Enzor to approve the application for sales associate; the motion passed without dissent.

Tab J – Correa, Ricardo, not present – Applicant withdrew application.

Tab K – Curriden, Cameron R., present; represented by Daniel Villazon, Esquire, present – Commissioner Enzor moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab L – Dinnell, Larry R., not present – Commissioner Podolsky moved; seconded by Commissioner DeNapoli to deny the application for sales associate; the motion passed without dissent.

Tab M – Epps, Lorenzo J., present – Commissioner Podolsky moved; seconded by Commissioner DeNapoli to deny the application for sales associate; the motion passed with 1 in dissent.

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

Tab O – Fales, Joshua, not present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to deny the application for sales associate; the motion passed without dissent.

Tab P – Foust, Rondrietta, present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to approve the application for sales associate; the motion passed without dissent.

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

Tab R – Halstead, Jason, present – Applicant withdrew the application and waived the 90-day requirement.

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

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

Tab U – Martin, Julie R., present – Applicant withdrew the application and waived the 90-day requirement.

Tab V – Midolo, Justin M., present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab W – Miranda, Joseph J., present – Commissioner Hornsleth moved; seconded by Vice-Chair Boring to approve the application for broker; the motion passed with 1 in dissent.

Tab X – Pena, Daniel S., present – Applicant withdrew the application and waived the 90-day requirement.

Tab Y – Polk, Christa N., present – Applicant withdrew the application and waived the 90-day requirement.

Tab Z – Pollog, Linda A., present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab AA – Rodriguez, Joseph, not present – Commissioner Hornsleth moved; seconded by Vice-Chair Boring to deny the application for sales associate; the motion passed without dissent.

Tab AB – Schreiber, Kevin, not present – Commissioner Podolsky moved; seconded by Commissioner DeNapoli to deny the application for sales associate; the motion passed without dissent.

Tab AC – Shoop, Caroline A., not present – Applicant requested a continuance. Commissioner DeNapoli moved; seconded by Commissioner Hornsleth to grant a continuance; the motion passed without dissent.

Tab AD – Slaughter, Franklin D. Jr., present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab AE – Stafford, Ronald E., present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for broker; the motion passed without dissent.

Tab AF – Vazquez, Robert, present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab AG – Wagner, Staci, present – Applicant withdrew the application and waived the 90-day requirement.

Tab AH – Washington, Richard L., present – Commissioner DeNapoli moved; seconded by Commissioner Hornsleth to approve the application for sales associate; the motion passed without dissent.

Tab AI – Wittenberg, David B., not present – Applicant withdrew application.

Consent Agenda, Agenda A

The Commission considered 163 applicants from the Consent Agenda; Commissioner Hornsleth moved; seconded by Vice-Chair Boring to approve 97 applicants and require 66 applicants to be placed on the Summary of Applicant Agenda; the motion passed without dissent.

The following applicants were approved:

Acevedo, Claudio
Afrooz, Peter
Amis, Jan
Baber, William Jr.
Bell, Khalil
Camburn, William
Campos Falconi, Roxana
Castillo, Alfred
Chapman, Vicki
Christie, Steven
Cruz, Frank
Daigle, Allison
Dario, Gary
De Villada, Nicolas
Demby, Raymond II
Demouy, Mathew
Dennis, Paulette
Diaz, Andre
Dominguez, Tony
Douglas, Tristan
Downing, James
Eaton, Michael
Endres, Rene
Fernandez, Ernest
Fetzner, Paul
Fleming, Daimen
Gallant, Natoshia
Gil, Angel
Giraldo-Sanchez, Jenice
Golsen, Gene

Henrion, Jeannine
Hill, William
Horskin, Kathleen
Human, Christine
Hune, David
Hurley, Sean
Jacome, Fernando
Jaramillo, David
Johnson, Cathy
Johnson, Marcus
Jolley, Ellen
Katz, Valerie
Knautz, Kent
Kolar, Thomas
Lumpkin, Robert
Martin, Brandon
McAuslin, Ian
Miller, Pamela
Mitchell, Melody
Moore, Andrew Jr.
Moore, Ryan
Morales Ballesteros, Norberto
Mosley, Cori
Myers, Kristin
Oates, Latoya
O'Bannon, Philip
Oks, Alexia
Oliver, Keitherin
Olson, John
Ortega, Tatiana

Peralta, Andrew
Pitts, Angela
Purcell, Ronald Jr.
Rhulen, Erik
Rodriguez, Roberto
Samaroo, Keshore
Sanborn, Scott
Sanchez, Angel
Sanchez, Lucas
Schachter, Andrew
Scott, Richard
Shakespeare, Simon
Sines, Bruce
Smith, Joseph
Smith, Justin
Speno, Edward
Strickland, Barbara
Urban, Adam
Urbina, Oswaldo
Valenti, Sexton
Vandyke, Marty
Waldman, Dana
Ward, Stephanie
Wardzinski, Elmer
Wasserman, Max
Wegener, Christine
Wiggins, Williams I
Wilhoit, Robert
Williams, Quwan
Wisniewski, Robert

Granizo, Jose
Hartley, Angeline
Hawk, Carl

Ostojic, Predrag
Panofsky, Yony

Wood, April
Wroblewski, Brian

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

Abenojar, Nelson
Ansons, Nicola
Appel, Jesse
Birdwell, Jamie
Burky, Brett
Butsinas, Katherine
Cameron, William
Capelli, Joseph
Cargill, Hudson
Chairez, Nancy
Chamberlain, Sean
Cineas, Clifford
Claherty, Mark
Cone, Andy
Cordero Gonzalez, Yahaira
Cunningham, John
Dawkins, Samuel
Desai, Shekhar
Dickerson, Shari
Durbin, Eric
Englund, Jerry
Frias, Denise

Fry, Mark
Gantt, Seadrick
Hollister, Bruce
Jacobson, Jason
Jimenez, Aaron
Klingler, Richard
Kocijan, Sandra
Lachance, Juliana
Laine, Ryan
Loudort, Blaise
Luttrull, Jay
Lycan, Craig
Mahany, Cody
McAdams, Chris
Mejia, Jose
Mosias, Elliott
Nelkin, Leslie
Nichols, Marietta
Oliver, Bryce
Perez, Jose A.
Powers, Todd
Quarles, Michael

Rabolli, Justin
Redondo, Jessica
Rivera-Samperio, Luis
Sankey, Christopher
Searcy, James
Sidani, Fadi
Smith, Louise
Soto, Jenifer
Stinson, Rushton III
Toscano, Francis
Toyos, Waldo
Turner, Evan
Twigg, Jeffery
Vacinek, Donna
Vaknine, Pinchas
Vigh, Matthew
Watson, James
West, Clifford Jr.
Williams, Brandon
Williams, Keith
Zaveri, Irfan
Zerbinato, Roberta

Legal Appearance Docket continued

Tab AE – Cesar Leon, III, SL 3149828, Case No. 2009066311 – Settlement Stipulation

Respondent was not present and represented by James Rainey, Esquire, not 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 entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner Podolsky to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: \$1,250.00 fine, investigative costs, complete a 28-hour reactivation course, attend one 2-day FREC meeting. **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes, by dealing dishonestly and fraudulently in a business transaction by signing a rental agreement in Complainant's name without obtaining prior authorization; violated Section 475.42(1)(b), Florida Statutes, when Respondent acted in the capacity of a broker while registered with Petitioner as a sales associate.

Action taken: Settlement Stipulation accepted.

Tab AF – Lucille Poag, BK 430464, Case No. 2011018561 – Settlement Stipulation

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 entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner Podolsky to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: \$250.00 fine, investigative costs, attend a 4-hour escrow management class and a 30-hour broker management course. **Violation:** Respondent violated Section 475.25(1)(e), Florida Statutes, by violating Rule 61J2-14.012(1), Florida Administrative Code, by failing to keep an accurate account of each deposit transaction wherein funds were deposited into House of Homes' bank accounts; violated Section 475.25(1)(e), Florida Statutes, by violating Rule 61J2-14.010(1), Florida Administrative Code, when Respondent failed to deposit funds, money, checks, drafts, personal property, or items of value that were received by Respondent in connection with a real estate transaction in an insured escrow or trust account; violated Section 475.5015, Florida Statutes, by failing to keep and make available to the department books, accounts or records for at least five years from the date of receipt of any money or five years from the date of execution by any party of an agreement which engages the services of Respondent.

Action taken: Settlement Stipulation accepted.

Agenda A, Tab AG; Agenda B, Tab G – Carlos Manuel Sanchez, SL 3058272, Case No. 2011011796 – Settlement Stipulation

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 Hornsleth moved; seconded by Commissioner Podolsky to accept the Stipulated Settlement. The motion passed without dissent.

Penalty imposed: \$500.00 fine, investigative costs, complete an Ethics course. **Violation:** Respondent violated Section 455.227(1)(t), Florida Statutes, by failing to inform the Commission in writing within 30 days of pleading nolo contendere to Battery (adjudication was withheld).

Action taken: Settlement Stipulation accepted.

Tab AO – Jose F. Farinha, SL 3079370, Case No. 2010006204 – 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, investigative costs. **Violation:** Respondent violated Section 455.227(1)(t), Florida Statutes, by failing to inform the Commission in writing within 30 days of pleading guilty to a crime; violated Section 475.25(1)(f), Florida Statutes, when he pled guilty to one count of making false and fraudulent statements on a loan application.

Agenda A, Tab AT; Agenda B, Tab I – Dennis Lorena Garcia, SL 3088737, Case No. 2011030340 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

Respondent was not present and not represented by counsel. Vice-Chair Boring 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 Podolsky; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Commissioner DeNapoli; motion passed without dissent to impose the following sanctions:

Penalty imposed: Revocation, investigative costs. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, by being found guilty for communications fraud; violated Section 475.25(1)(p), Florida Statutes, by failing to inform the Commission in writing within 30 days after being found guilty for communications fraud; violated 475.25(1)(n), Florida Statutes, by being confined to the Glades County Detention Center.

Tab AU – David Hernandez, BK 3221905, Case No. 2011002600 – 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 Guju; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Commissioner Guju; motion passed without dissent to impose the following sanctions:

Penalty imposed: Revocation, \$2,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes, when Respondent committed fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealings or breach of trust during his business transactions with Complainant; violated Section 475.25(1)(d)1, Florida Statutes, when Respondent failed to account and deliver, upon demand, funds that were required to be held in escrow.

Tab AV – David Hernandez, BK 3221905, Case No. 2011004057 – 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 Guju; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Commissioner Guju; motion passed without dissent to impose the following sanctions:

Penalty imposed: Revocation, \$2,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes, when Respondent committed fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealings or breach of trust during his business transactions with

Complainant; violated Section 475.25(1)(d)1, Florida Statutes, when Respondent failed to account and deliver, upon demand, funds that were required to be held in escrow.

Tab AW – David Hernandez, BK 3221905, Case No. 2011006065 – 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 Guju; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Hornsleth moved, seconded by Vice-Chair Boring; motion passed without dissent to impose the following sanctions:

Penalty imposed: Revocation, \$4,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes, when Respondent committed dishonest dealings or breach of trust by issuing a check from a nonexistent bank account, or allowing escrow funds to become missing and unaccounted for; violated Section 475.25(1)(d)1, Florida Statutes, when Respondent failed to account and deliver, upon demand, funds that were required to be held in escrow; violated Section 475.25(1)(e), Florida Statutes, by violating Section 455.275(1), Florida Statutes, when Respondent failed to notify the department, in writing, of Respondent’s current mailing address; violated Section 475.5015, Florida Statutes, when Respondent failed to make his brokerage records available to the Petitioner.

Tab AY – Terrance McDonough, SL 618681, Case No. 2006004950 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

Respondent was not present and not represented by counsel. Commissioner Hornsleth was 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 waiver hearing and entered into discussion. Commissioner Guju moved, seconded by Commissioner Enzor; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Guju moved, seconded by Vice-Chair Boring; motion passed without dissent to impose the following sanctions:

Penalty imposed: Revocation, \$1,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(b), Florida Statutes, by committing fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealings by trick, scheme or device, culpable negligence, or breach of trust in any business transaction when he misappropriated funds which were entrusted to Respondent for placement with Respondent broker’s trust accounts.

Tab AZ – Sharon Jane Overson, SL 3095657, Case No. 2010043276 – 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.

Mr. Fier 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 Vice-Chair Boring; motion carried unanimously to find the Respondent guilty as charged in the Administrative

Complaint. Commissioner Hornsleth moved, seconded by Commissioner DeNapoli; motion passed without dissent to impose the following sanctions:

Penalty imposed: Revocation, \$3,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(k), Florida Statutes, by not immediately placing with her broker the \$1,000.00 fee entrusted to her by the Seller agent; violated Section 475.42(1)(b), Florida Statutes, when Respondent collected Seller's check in her own name without the consent of the broker; violated Section 475.25(1)(b), Florida Statutes (2010), when Respondent falsely promised to list Seller's property per the terms of their agreement and when she breached the trust of the Seller by failing to perform..

Tab BA – Gerard Rodriguez, SL 3158836, Case No. 2008054970 – 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 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 DeNapoli; motion passed without dissent to impose the following sanctions:

Penalty imposed: Revocation, \$2,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.42(1)(b), Florida Statutes, when Respondent facilitated a the sale of Subject Property as a representative of Nelson Realty, at a time when Nelson Realty did not have a current license or a qualifying broker; violated Section 475.25(1)(d), Florida Statutes, when commission was deposited directly into Respondent's personal bank account.

The following cases were continued or withdrawn

- Tab L – John Edward Fothergill, Case No. 2009059715
- Tab Q – Michael McLaughlin, Case No. 2008066770
- Tab S – Luis A. Monsalve, Case No. 2011003027
- Tab T – Luis A. Monsalve, Case No. 2011015101
- Tab U – Luis A. Monsalve, Case No. 2011017733
- Tab Z – Gary Richard Prescott, Case No. 2011035658
- Tab AP – Florida List for Less Realty, Inc., Case No. 2010046094
- Tab AQ – Florida List for Less Realty, Inc., Case No. 2010048031
- Tab AR – Florida List for Less Realty, Inc., Case No. 2010050193
- Tab AS – Florida List for Less Realty, Inc., Case No. 2011003434

FREC General Business cont.

Rule Development Workshop

Rule 61J2-1.016 – Review of Fees

Deputy Director Johnson presented this rule for the Commission's review and discussion upon its recommendation for a rule development workshop. The Commission entered into discussion. Deputy Director Johnson addressed questions and comments from the Commission. The Commission did not recommend any changes.

Rule 61J2-2.027 – Applications by Individuals

Deputy Director Johnson presented this rule for the Commission's review and discussion upon its recommendation for a rule development workshop. FREC Counsel Barnhart recommended to remove section (2)(b) or possibly repeal the rule in its entirety if the language in this rule is in Statute. The Commission entered into discussion. Commissioner Enzor moved that Rule 61J2-2.027 be eliminated in its entirety; seconded by Commissioner Hornsleth. Mr. Cunningham stated that the department often uses (2)(d) in Administrative Complaints when licensees fail to disclose prior discipline. Commissioner Enzor moved to table the motion until a future meeting for purposes of further providing additional information. Commissioner Podolsky seconded. Motion passed without dissent. The rule is tabled until a future meeting for purposes of researching the mental health reference and to determine whether the department must use this rule for non-disclosure.

Applicant Consent Agenda B

The Commission considered 1 applicant from the Consent Agenda B; Commissioner Guju moved; seconded by Commissioner Hornsleth to approve 1 applicant; the motion passed without dissent.

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

Jones, William

Correspondence from Michael Orlando

Deputy Director Johnson presented a letter received from Michael Orlando requesting the Commission allow him to renew late. Mr. Orlando did not appear in support of her request. The Commission entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to support Director Watkins' decision to deny Mr. Orlando's request.

Applicant Recommended Order

Tab A – David Torres v. DBPR, Florida Real Estate Commission – DOAH Case No. 11-6204

FREC Counsel Tom Barnhart presented the Recommended Order of the Administrative Law Judge. Petitioner was not present. The Commission considered the Recommended Order of the Division of Administrative Hearings recommending the FREC issue a Final Order approving Petitioner's application for licensure as a real estate sales associate upon his passage of the examination. Commissioner Podolsky moved to vacate the Notice of Intent to Deny the Commission, filed October 13, 2011, and adopt the Findings of Fact as written and adopt the Conclusions of Law as amended and approve the Recommended Order. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

Deputy Director's Comments

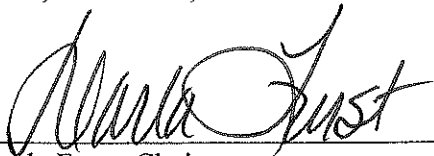
Deputy Director Johnson reported the dates and location of the upcoming instructor seminars. Commissioner Guju requested to receive notification of the September seminar.

Commission Remarks

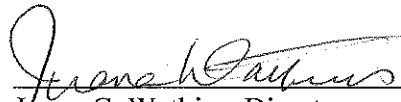
Chair Furst reported that she recently visited the White House to participate in a forum for purposes of receiving feedback from members of the real estate industry regarding real estate issues. Chair Furst stated that the meeting was interesting and was very pleased to participate.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 12:51 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for July 17 and 18, 2012, in Orlando, Florida.



Darla Furst, Chair
Florida Real Estate Commission



Juana C. Watkins, Director
Florida Real Estate Commission