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Ken Lawson, Secretary

Rick Scott, Governor

Minutes of THE FLORIDA REAL ESTATE COMMISSION July 19 and 20, 2011 General Meeting

Vice-Chair Michael Guju called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, Florida, on this 19th day of July, 2011.

The following Commission members were in attendance: Vice-Chair Michael Guju, Claude "Chip" Boring, Darla Furst, Roger Enzor, Ralph McCoig and John Ruffier. Chair Richard DeNapoli 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: Ken Lawson, Secretary; Juana C. Watkins, Director; Denise Johnson, Deputy Director; Mark Letarte, Bureau Chief of Enforcement; James Harwood, Chief Attorney; Patrick Cunningham and Joseph Solla, Senior Attorneys; Lauren Roderick, Attorney; Warren Sanger, Investigator Specialist II; JoEllen Peacock, Education Coordinator; Janice Taylor, Government Analyst I; Jocelyn Pomales, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court reporter services.

Approval of the Minutes

Commissioner Ruffier moved; Commissioner Enzor seconded to approve the Minutes of the June 20 and 21, 2011, General Meeting, as written. Motion carried unanimously.

Unlicensed Activity Report

Director Watkins presented the Unlicensed Activity Report.

Monthly Exam Performance Summary Report

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

Letter from Stephen B. Shell, Esquire

Director Watkins presented a letter received from Stephen B. Shell, Esquire, on behalf of Dock Reed, requesting that his real estate license received by mutual recognition be reinstated. Director Watkins explained that Mr. Reed's license is null and void due to not completing the renewal requirements. Director Watkins stated that she and other members of her team have spoken with Mr. Reed on several

occasions and have explained the division's position. Commissioner Enzor stated that he has spoken with Mr. Reed numerous times and attempted to explain as well. The Commission entered into discussion and authorized Director Watkins to draft a letter explaining its position regarding reinstatement of his license.

Request from North Carolina Real Estate Commission

FREC Counsel Tom Barnhart presented a letter received from Mr. Thomas R. Miller, Legal Counsel, North Carolina Real Estate Commission, requesting assistance from the Florida Real Estate Commission in providing written court decisions from its jurisdiction that might be of interest to government officials in other jurisdictions. The Commission entered into discussion and authorized Mr. Barnhart to provide a response.

Escrow Disbursement Orders

Senior Attorney Joseph Solla presented 30 Escrow Disbursement Orders and 3 Orders for the Commission's consideration. Commissioner Enzor moved to accept the 30 Escrow Disbursement Orders and 3 Orders. Commissioner Furst seconded the motion. The motion carried unanimously. Upon recommendation of the Legal Section, the Commission issued 30 Escrow Disbursement Orders and 3 Orders.

Recovery Fund Claim Final Orders and Order

Add Realty, Inc. v. Charity Giordano – DBPR Case No. 2011011925 – Senior Attorney 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 Ruffier moved to approve the order granting the claim in the amount of \$4,150.00. Commissioner Boring seconded the motion. The motion carried unanimously.

Beachwalk Tampa, L.L.C. v. Peter Langer – DBPR Case No. 2011028078 – Senior Attorney Solla presented this matter to the Commission. Mr. John Duss, Esquire, appeared in support of the Claimant. Mr. Solla stated that the Claimant is requesting the Commission to waive the requirement for obtaining a civil judgment against the licensee in this matter. The Commission considered the facts and circumstances. Mr. Solla stated his recommendation is to create an estate and comply with the requirements of the statute. Commissioner Ruffier moved to grant waiving the requirement of Section 475.483(1)(a), Florida Statutes and allow Claimant to file a claim without obtaining a Final Judgment. Commissioner McCoig seconded the motion. The motion carried unanimously.

<u>David Colaberdino v. Peter Langer</u> – DBPR Case No. 2011029845 – Senior Attorney Solla presented this matter to the Commission. Mr. Solla stated that the Claimant is requesting the Commission to waive the requirement for obtaining a civil judgment against the licensee in this matter and for payment from the Recovery Fund. Mr. Solla advised that the information received from the Claimant is inconclusive and recommended the Commission decline waiving the requirements of Section 475.483(1)(a), Florida Statutes, but reconsider payment of the claim presented upon full compliance with the requirements of the statute. The Commission considered the facts and circumstances and entered into discussion. Commissioner McCoig moved to grant waiving the requirements of Section 475.483(1)(a), Florida Statutes, deny payment of the claim as presented and reconsider upon proof of the claim. Commissioner Ruffier seconded the motion. The motion carried unanimously.

<u>Caleb T. Nasseri v. Lori J. Lemons</u> – DBPR Case No. 2009030910 – Senior Attorney 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 Furst moved to approve the order granting the claim in the amount of \$40,500.00. Commissioner Enzor seconded the motion. The motion carried unanimously.

<u>Vito Morolla v. James S. Stephenson</u> – DBPR Case No. 2011017578 – Senior Attorney Solla presented this matter to the Commission. Claimant appeared in support of the claim. 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 McCoig moved to approve the order granting the claim in the amount of \$500.00. Commissioner Furst seconded the motion. The motion carried unanimously.

Secretary Lawson Addresses the Commission

Vice-Chair Guju welcomed Secretary Lawson to the Florida Real Estate Commission (FREC) meeting. Secretary Lawson provided a summary of his background prior to becoming Secretary of the department.

Secretary Lawson stated he was here to address an issue involving the department relating to a deficit in the Florida Real Estate Appraisal Board (FREAB) operating account. Secretary Lawson explained that several years ago the Legislature swept the excess funds the FREAB had in its operating account so the FREAB realized it was doing well and took a fee holiday to reduce some of the excess funds. Then the market crashed and now the board has a deficit due to many appraisers leaving the business causing less revenue. Secretary Lawson reported that the department is looking for ways to take care of the deficit and one option is asking the FREC to assist FREAB with its shortfall.

Secretary Lawson stated that he has spoken to the Chair of the FREAB who offered several creative ideas the board offered on how to solve the problem. Secretary Lawson also reported that he asked the department's accounting office to check its records and ensure that expenses were allocated to the correct board in compliance with the law. In conclusion, Secretary Lawson stated that he spoke with the FREC Chair and is now bringing it to the rest of the Commission to begin this dialogue in order to be able to address the issue head on and come together as a community to solve it.

Vice-Chair Guju inquired how much is needed and by what date. Secretary reported that the total would be 2.4 million dollars. Vice-Chair Guju requested a copy of the Fiscal Year 2010-2011 year-to-date, the budget for Fiscal Year 2010-2011 and the proposed budget for Fiscal Year 11-12 to help them in their decision. Director Watkins stated that the division could provide tentative numbers in August as the final numbers are not available until September.

Commissioner Boring asked if the Commission considers providing financial assistant to FREAB, whether someone will be working on the Legislature not to come in and continue to sweep funds. Secretary Lawson explained that is a question for the Governor and the Legislature, but asked since FREC is in the position to assist the FREAB, is it not better that the funds stay within the family as opposed as to being swept into general revenue.

Commissioner McCoig commented that he appreciates Secretary Lawson's service to our country and then asked if this solution is the only alternative to resolve this issue. Secretary Lawson stated that the department is looking at several other opportunities including FREC's assistance but that nothing has been decided conclusively.

Commissioner Enzor stated that the Division of Real Estate is the Division of Real Estate and believes both boards should share one pot; however, he would like to see how FREAB got into this situation. Secretary Lawson responded that the division would provide the numbers to the Commissioners.

Vice-Chair Guju stated that the hand-outs Director Watkins provided were the budget projections for Fiscal Years July 1, 2011 through June 30, 2015, and the Statement of Revenue and Expenditures for the Nine Months Ending March 3, 2011, so the only thing missing is the 4th quarter for the last Fiscal Year is the 4th quarter.

Commissioner McCoig asked for a figure of how much the Legislature swept from FREAB's accounts. Director Watkins stated the last sweep was in 2004 but does not have the specific amount which she stated she would provide in August. Director Watkins addressed additional questions and comments from the Commission. Vice-Chair Guju requested to place this topic on the agenda for the August meeting.

The Commission thanked Secretary Lawson for his presentation.

Legal Agenda Schedule continued

Chief Attorney Harwood reported the Office of General Counsel is transferring 4 attorney positions to Tallahassee to handle FREC cases. Mr. Harwood stated that typically the division has had three attorneys and one part-time attorney in Orlando working on FREC cases and recently two of those positions became vacant. Mr. Harwood further reported that the department decided to transfer the two attorney positions to Tallahassee and that those positions would still handle real estate cases. Additionally, the Office of General Counsel in Tallahassee offered the two remaining real estate attorneys located in Orlando, the option to transfer to Tallahassee. Both Mr. Cunningham and Ms. Roderick accepted the offer, however, Ms. Roderick recently elected to resign. Commissioner Enzor asked why the positions are being transferred and Mr. Harwood are responded that the Office of General Counsel felt it would be more efficient as the attorneys would have more resources available to them in Tallahassee. Mr. Harwood addressed additional questions and comments from the Commission.

The Commission thanked Ms. Roderick for her exemplary service to the department and wished her the best in her future endeavors.

Legal Final Order Docket

Tab D - Alexandria Martin, SL 3051505, Case No. 2009041913 - Recommended Order, Exceptions

Respondent was present and represented by Robert Riggio, Esquire. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Solla represented the Department and presented the case to the Commission. Mr. Riggio filed exceptions to the Recommended Order on behalf of the Respondent, however submitted a Motion to

Withdraw Exceptions. The Commission entered into discussion. Commissioner Furst moved to grant the Motion to Withdraw Exceptions; seconded by Commission McCoig; motion carried unanimously. Commissioner McCoig moved to accept the Recommended Order and adopt the Findings of Fact and Conclusions of Law dismissing the Administrative Complaint; seconded by Commissioner Furst, motion carried unanimously.

Action taken: Administrative Complaint dismissed.

Tab W – M. Consuelo Vilar, BK 3005195, Case No. 2008034634 – Petitioner's Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was not present and represented by Mark Cohen, Esquire, not present. Attorney Amy Steiner appeared as representation on behalf of Mr. Cohen's office. Commissioner Enzor was recused due to participation on the probable cause panel.

Ms. Roderick represented the department and presented the case to the Commission. Mr. Cohen submitted a Motion to Continue Hearing on Petitioner's Request for an Informal Hearing and Request to Attend Hearing Telephonically. Ms. Amy Steiner, Esquire, was present on behalf of Attorney Cohen in his absence. The Commission entered into discussion. Commissioner McCoig moved, seconded by Commissioner Boring; motion carried unanimously to continue the case until August 30, 2011.

Action taken: Case continued to August 30, 2011.

Tab Y – Mark Gerard Willberg, BK 584550; Case No. 2009064642 – Petitioner's Request for an Informal Hearing

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

Ms. Roderick represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner McCoig; motion carried unanimously to find the Respondent guilty of Count I as charged in the Administrative Complaint. Commissioner Ruffier moved, seconded by Commissioner Boring; motion carried 4 to 1 to impose the following sanctions:

Penalty imposed: Suspension for 60 days, \$500.00 fine, \$570.90 investigative costs, 1 year probation, attend two 2-day FREC meetings. **Violation:** Guilty of having been convicted of Federal Housing Administration Loan and Credit Application Fraud in violation of Section 475.25(1)(f), Florida Statutes; guilty of failure to inform the commission, in writing within 30 days, after being convicted of Federal Housing Administration Loan and Credit Application Fraud in violation of Section 475.25(1)(p), Florida Statutes.

Tab F – Tom Daugherty, SL 374280, Case No. 2010008460 – Petitioner's Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was not present and was represented by Joseph Madden, Jr., Esquire, present. Commissioner Ruffier was recused due to participation on the probable cause panel.

Ms. Roderick 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 Furst; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Enzor moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$280.50 investigative costs. **Violation:** Guilty of having been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of a licensed broker or sales associate, or involves moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(1)(f), Florida Statutes.

Tab P – Scott Edwin Moseley, SL 3122595, Case No. 2008058050 – Respondent's Request for an Informal Hearing

Respondent was present and was represented by Thomas J. Palumbo, Esquire, present. Commissioner Enzor was recused due to participation on the probable cause panel.

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

Penalty imposed: \$500 fine, \$191.40 investigative costs, 3 months probation, attend one 2-day FREC meeting. Violation: Guilty of signing Seller's name to a contract in violation of Section 455.227(1)(a), Florida Statutes.

Tab C - Anne Hurst, BK 3057283, Case No. 2009052356 - Recommended Order, Exceptions

Respondent was present. Respondent was represented by William Haley, Esquire, not present. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Solla represented the Department and presented the case to the Commission. Both parties filed exceptions to the Recommended Order. Mr. Solla presented Petitioner's Exception to the Administrative Law Judge's recommended penalty. Mr. Haley also filed exceptions, on behalf of the Respondent, to the Administrative Law Judge's finding of a violation as alleged in Count Two of the Administrative Complaint and requested the Commission dismiss Count Two. The Commission entered into discussion. Commissioner McCoig moved to deny the exceptions filed by both parties; seconded by Commissioner Furst, motion carried unanimously. Commissioner McCoig moved to accept the Recommended Order and adopt the Findings of Fact and Conclusions of Law and the recommended penalty with the inclusion of investigative costs; seconded by Commissioner Boring, motion carried unanimously.

Penalty imposed: Reprimand, \$250 fine, \$627.00 investigative costs. **Violation:** Guilty of having operated as a sales associate without being the holder of a valid and current license as a sales associate in violation of Section 475.25(1)(c), Florida Statutes.

Informal Hearing Request - Real Estate Continuing Education Course

Generation Buy, Course No. 14114

The Commission reviewed and considered this CE application course in March and issued a Notice of Intent to Deny. Attorney Daniel Villazon requested an informal hearing on behalf of Applicant Carol Platt and submitted written document in support of his request for approval. The Commission considered the request. Commissioner Furst moved to vacate the prior Notice of Intent to Deny and approve renewal of the continuing education course as it meets the requirements of Section 475.182, F.S. Commissioner Enzor seconded the motion. The motion carried unanimously.

Legal Final Order Docket continued

Tab A - Alexis Acosta, SL 397829; Case No. 2008019315 - Recommended Order

Respondent was not present and represented by Maritere Andreu, Esquire, not present. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission considered the Recommended Order and entered into discussion. The Administrative Law Judge recommended dismissing Count One of the Administrative Complaint and find the Respondent guilty as to Count Two. Commissioner McCoig moved, seconded by Commissioner Enzor; motion carried unanimously to adopt the Findings of Fact and Conclusions of Law, accept the Recommended Order and impose the following sanctions:

Penalty imposed as to Count II: \$250.00 fine, 90 days probation; complete an escrow course of at least 2 hours. Violation: Guilty of failure to indicate in the sales and purchase contract for the Subject Property the address for the Escrow Agent and failed to obtain and retain written verification upon delivery of the Buyer's deposit in violation of Rule 61J2-14.008(2)(b), Florida Administrative Code and therefore, Section 475.25(1)(e), Florida Statutes.

Tab B - Clifford Esterson, SL 25322, Case No. 2008033273 - Recommended Order

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

Mr. Cunningham represented the department and presented the case to the Commission. The Commission considered the Recommended Order and entered into discussion. Commissioner McCoig moved, seconded by Commissioner Ruffier; motion carried unanimously to adopt the Findings of Fact and Conclusions of Law and accept the Recommended Order of the Administrative Law Judge.

Action taken: Administrative Complaint dismissed.

Tab G – Yadira Garrido, SL 3011244, Case No. 2009002470 – Voluntary Surrender of Licensure for Permanent Revocation

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

Ms. Roderick represented the department and presented the case to the Commission. Commissioner Ruffier moved, seconded by Commissioner McCoig to accept the Affidavit for the Voluntary Surrender of License for Permanent Revocation; motion carried unanimously.

Penalty imposed: Revocation.

Tab H, I, J, K, L – Charity Dawn Giordano, BK 3042463; Case Nos. 2010016254, 2010056361, 2010032653, 2010046231, 2010050495 – Voluntary Surrender of Licensure for Permanent Revocation

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

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

Penalty imposed: Revoke.

Tab M – Kang Realty Corporation, CQ 1015726, Case No. 2008041675 – 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 Guju was recused due to participation on the probable cause panel.

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

Penalty imposed: Revoke, \$2,500.00 fine, \$399.30 investigative costs. Violation: Guilty of exercising influence on a client for the purpose of financial gain of the licensee in violation of Section 455.227(1)(n), Florida Statutes and therefore in violation of Section 475.42(1)(e), Florida Statutes; guilty of failing to deliver personal property upon demand of a person entitled to such delivery, when there is an absence of a fixed time of delivery in violation of Section 475.25(1)(d)1., Florida Statutes; guilty of making misrepresentation and committing a breach of trust in violation of Section 475.25(1)(b), Florida Statutes; guilty of exercising influence on a client for the purpose of financial gain of the licensee in violation of Section 475.25(1)(d), Florida Statutes.

Tab N – Sung Kang, BK 701560, Case No. 2008041584 – 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 Guju was recused due to participation on the probable cause panel.

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

Administrative Complaint. Commissioner McCoig moved, seconded by Commissioner Enzor; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$2,500.00 fine, \$488.80 investigative costs. Violation: Guilty of exercising influence on a client for the purpose of financial gain of the licensee in violation of Section 455.227(1)(n), Florida Statutes and therefore in violation of Section 475.42(1)(e), Florida Statutes; guilty of failing to deliver personal property upon demand of a person entitled to such delivery, when there is an absence of a fixed time of delivery in violation of Section 475.25(1)(d)1., Florida Statutes; guilty of making misrepresentation and committing a breach of trust in violation of Section 475.25(1)(b), Florida Statutes; guilty of failing to satisfy a civil judgment within a reasonable time frame in violation of Section 475.25(1)(d), Florida Statutes and therefore in violation of Section 475.42(1)(f), Florida Statutes.

Tab O – Terrence Jerome Miedzianowski, SL 638010, Case No. 2008022337 – Respondent's Request for an Extension of Time to Comply with Final Order

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

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

Action Taken: Extension granted for one year.

Tab Q – Osbourne George Mowatt, BK 644844, Case No. 2007040787; and Nuconcept Realty of N. Dade, Inc., CQ 1016782, Case No. 2007040790 – Respondent's Request for an Extension of Time to Comply with Final Order

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

Ms. Blakeman represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Furst moved, seconded by Commissioner Ruffier; motion carried unanimously to grant an extension for three months from the date of filing of this Order to complete the requirements of the Final Order.

Action Taken: Extension granted for three months.

Agenda B, Tab A; Agenda A, Tab R – Warren H. Newell, SL 347150, Case No. 2008033896 – 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 Guju was recused due to participation on the probable cause panel.

Ms. Roderick represented the department and presented the case to the Commission. Respondent submitted a Motion for Continuance. The Commission entered into discussion. Commissioner McCoig moved, seconded by Commissioner Furst; motion carried unanimously to deny Respondent's request for continuance. The Commission granted the informal hearing and entered into discussion.

Commissioner McCoig moved, seconded by Commissioner Furst; motion carried unanimously to find the Respondent guilty of Counts II and III as charged in the Administrative Complaint. Commissioner McCoig moved, seconded by Commissioner Furst; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$500.00 fine, \$676.50 costs. **Violation:** Guilty of having been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of a licensed broker or sales associate, or involves moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(1)(f), Florida Statutes; guilty of not having informed the Florida Real Estate Commission in writing within thirty (30) days of having pled guilty or having been convicted of a felony in violation of Section 475.25(1)(p), Florida Statutes.

Tab T – William David Seigler, SL 3139049; Case No. 2010062949 – Voluntary Surrender of Licensure for Permanent Revocation

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

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

Penalty imposed: Revocation

Tab U – Gabriel Souza, BK 3104515, Case No. 2008053953 – Respondent's Request for an Extension of Time to Comply with Final Order

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

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Furst moved, seconded by Commissioner McCoig; motion carried unanimously to grant an extension for six months from the date of filing of this Order to complete the requirements of the Final Order.

Action Taken: Extension granted for six months.

Tab V – Kenneth Starich, SL 3114163, Case No. 2007063678 – Settlement Stipulation

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

Mr. Cunningham represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner McCoig moved; seconded by Commissioner Furst to accept the Stipulated Settlement. Motion carried unanimously.

Penalty imposed: \$1,000.00 fine, \$333.50 costs. Violation: Guilty of failure to account and deliver to any person, funds when a civil judgment relating to the practice of the licensee's profession has been

obtained against the licensee and said judgment has not been satisfied in accordance with the judgment or within a reasonable time in violation of Section 475.25(1)(d), Florida Statutes.

Tab Z – Tyrone R. Bowie, BK 3025986 and BK 3200451, Case Nos. 2008035266, 2008035267, 2008038665 – Stipulated Settlement

Respondent was present and represented by August Stanton, Esquire, not present. Commissioner Enzor was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Furst moved; seconded by Commissioner Ruffier to accept the Stipulated Settlement. Motion carried unanimously.

Penalty imposed: \$500.00 fine and \$1,079.10 costs within 30 days of the effective date of the Final Order, must attend one 2-day FREC general meeting. **Violation:** Guilty of having operated as a broker without being the holder of a valid and current license as a broker in violation of Section 475.42(1)(a), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes; guilty of aiding and assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to Chapter 455, 475 or the Rules of the Petitioner in violation of Section 455.227(1)(j), Florida Statutes.

Cases withdrawn or continued

Tab E – Lilli A. Allen
Tab S – Harry Ruocco
Tab X – Betty J. Walter
Tab AA – John Charles Gray

Consent Agenda A

The Commission considered 161 applicants from the Consent Agenda; Commissioner McCoig moved; seconded by Commissioner Ruffier to approve 111 applicants and require 50 applicants to be placed on the Summary of Applicant Agenda; motion carried unanimously.

The following applicants were approved:

Aguilar, Nelson O	Gonzalez, Daniel	Osborn, Angela Marie
Albanese, David N	Grimm, Hans Alois	Palmer, Johnathan
Alzerreca, Richard	Grimsley, Eric D	Patchanian, David M Sr
Arena, Jolene Maria	Gutierrez, Andres R	Peeples, Theda Ann
Balderas, David	Hayden, James Lester	Peknik, Don Paul
Baldwin, Paul Everitt III	Hayes, Jason S	Pinkert, Steven David
Baltazar, Ariel	Heilman, Craig Vincent	Puckett, Garrett
Battershell, Kathleen J	Hennen, Jeremy Shad	Puente, Samaria
Beemer, Bruce Raymond	Hernando, George	Rahmings, Cory J
Bellamy, Scott Norris 10	Himmel, Paul Anthony	Richards, Jonathan E
Benitez, Jose Javier	Hughes, Lindell Sterling	Rivera, Edivier R
Braley, Chester Alan	Jaeger Minarcin, Mary C	Roche, Sidney Jack Jr

Brock, David Mitchell Buehler, Kara Marie Bullard, Leslie Corey Burgos, John Carzola, Manuel M Cline, John Harvey Cloud, Angela Jean Conklin, Aaron T Conrad, Jack Marshall II Cunningham, Colleen Degel, Michael Anthony Delacruz, Aldo Dooley, David W Elfakir, Mohamad Belal Falero, Walfrido Jr Feurring, Ross Joseph Foss, Christopher Franza, David Giandolfi, Derek Gilman, Zachary Ryan Gindel, Michael J

Gines, Jesse Samuel

Gonzalez, Antonio Jose

Glover, John Clay

Jamal, Adeel
Jean Charles, Joanne A
Johnson, Mark A
Johnson, Robert Eugene
Jones, Chase
Kalnas, David M

Kalnas, Chase
Kalnas, David M
Khindri, Ajay
Kiraly, Nicholas S
Lewis, Randy Paul
Livingston, Broc Charles
Long, Akilah Oni

Lovett, Joseph Donyell Marerra, Jenna Rae Maurer, Jake

Mazzone, Augusto Medina, Alex Sr Merrill, Kevin Mark

Messerschmidt, David Oliver Miller, Brad Andrew

Monroe, Nadine Nemecek, Randy Samson Nixon, Roshanda Nakita Odom, Clovia Kay Ortez, Miguel Rojas, Samuel Rosario, Stella Rose, Karrie Joe

Russell, Christine Renee Russell, Valerie Anne Sanders, Charles Dean Schneidman, David Shalamoff, Michael Sharpe, Phillip Douglas Silverberg, Allan David Skoczek, Douglas Edward Stewart, Alison Amanda Stoddard, Larry O Suarez, Yennifer D Suliaman, Fareeda Afra Tavalaiccio, Licia Frances

Taylor, Cynthia A
Tinkler, Stuart
Tompkins, La Kesha
Torres, Sheri Ilene
Tyson, Brook Lee
Ulrich, Sherry L
Zahraoui, Amine
Zervas, Louise Rose

Perry, Sanjuan Latrese

Pikop, David

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

Gaumer, Martha J

Abraham, Igal G Alexander, Jack Antonello, Sylvia Ball, Lorena Brogger, Neil William Bruckert, Michael Alan Chambers, Cook, Kevin Crane, Benjamin Currier, Gary Joseph Jr Deck, Susanna Deputy, Neal Richard Douglas, Alexander Espinosa, Judith Fidanza, Ernie Fudally, Lynn Michele

Haedo, Zaida M Harris, Keswick J Hernandez, Luis Jaramillo, Jaime M Keen, Michael Christopher King, John Alexander Kirschner, John Edward Mahapaurya, Rawin McCarthy, James J Melear, Michael Mendoza, Arturo Gonzalez Monteiro, Ana Cristina Morano, Robert Anthony Murphy, Franklin Dover Jr Overstreet, Howronda D Perez, Abriam Lee

Ramirez, Yamil
Rauber, Raymond Joseph
Rigotti, Maria Alejandra
Roberts, Errick Lenard
Rogers, Bradley
Rowland, Sean David E
Spitz, Drew Joseph
Stephens, James Alex
Stephens, Jeffrey Brian
Timofeev, Evgenii
Valverde, Pedro Jose Jr
Vaughan, Kevin Angelo Jr
Wallace, Michelle
Weylie, David William

Consent Agenda B

Gaona, Jeison

The Commission considered 1 applicant from the Consent Agenda B; Commissioner Ruffier moved; seconded by Commissioner Furst to require 1 applicant to be placed on the Summary of Applicant Agenda; motion carried unanimously.

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

Summary of Applicant

Tab C – Albert, Peter M.; present – Commissioner McCoig moved; seconded by Commissioner Enzor to approve the application for sales associate; motion carried unanimously.

Public Comments

Mr. Maurice Hayes from the Melbourne Association of Realtor Leadership Academy stated he was attending the meeting for continuing education. Mr. Hayes commented that the meeting has been very interesting and that they have enjoyed attending.

Mr. Lloyd Green, Esquire, United Kingdom, addressed the Commission regarding the absence of regulation of short term rental property management companies and explained his concerns at length. Vice-Chair Guju thanked Mr. Green for his presentation and requested that he leave the information with Director Watkins.

Director Watkins stated she would like to take it under advisement and that she would like to talk with Mr. Green further about his experience.

There being no further business and no objection, the Chair adjourned the meeting at approximately 3:45 p.m.

July 20, 2011

Vice-Chair Michael Guju reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, on this 20th day of July, 2011.

The following Commission members were in attendance: Vice-Chair Michael Guju; Claude "Chip" Boring, Darla Furst, Roger Enzor, Ralph McCoig and John Ruffier. Chair DeNapoli was excused. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Juana C. Watkins, Director; Denise Johnson, Deputy Director; James Harwood, Chief Attorney; Patrick Cunningham, Assistant General Counsel; JoEllen Peacock, Education Coordinator; Jeannie Adkinson, Regulatory Specialist III; Jocelyn Pomales, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813, provided court reporter services.

Summary of Applicants

Ms. Denise Johnson, Deputy Director, presented 95 Summary of Applicants requesting to sit for the real estate examination.

- Tab CB Siano, Peter; present and represented by Attorney Blaise Picchi; present Commissioner McCoig moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 5 to 1.
- Tab E Banka, Adam L.; present and represented by Attorney Daniel Villazon; present– Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.
- Tab AD Fuller, Mark W.; present and represented by Attorney Daniel Villazon; present Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.
- Tab BG Moradel, Carlos A.; not present and represented by Attorney Daniel Villazon; present Application withdrawn and waived the 90-day requirement.
- Tab F Barone, Vincent; present and represented by Attorney Nancy Campiglia; present Commissioner Enzor moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 4 to 2.
- Tab K Brown, Robert Q.; present and represented by Attorney Nancy Campiglia; present Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.
- Tab AY Lamp, Jordan J.; not present and represented by Attorney Nancy Campiglia; present Applicant requested a continuance and waived the 90-day requirement.
- Tab BH Murray, Jennifer M.; present and represented by Attorney Nancy Campiglia; present Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.
- Tab BS Richards, Raynard D.; present and represented by Attorney Nancy Campiglia; present Applicant withdrew his application.
- Tab BT Rota, Caterina A.; present and represented by Attorney Nancy Campiglia; present Commissioner Enzor moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.
- Tab CC Simonson, Todd; present and represented by Attorney Nancy Campiglia; present Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for broker; motion carried unanimously.
- Agenda B, Tab A Jessica Wallace; not present and represented by Attorney Nancy Campiglia; present Informal hearing Commissioner Boring moved; seconded by Commissioner Ruffier to vacate the Notice of Intent to Deny the Commission previously entered regarding the application for sales associate and approve the application; motion carried 5 to 1.
- Tab D Arther, William M. Sr.; not present Commissioner Furst moved; seconded by Commissioner Ruffier to approve the application for broker; motion carried 5 to 1.

- Tab G Belyaks, Dzintars; present Commissioner McCoig moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.
- Tab H Bocato, Joao L.; present Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 4 to 2.
- Tab I Boley, Ryan; present Application withdrawn and waived the 90-day requirement.
- Tab J Brennan, John P.; present Application withdrawn and waived the 90-day requirement.
- Tab L Burk, Mark A.; present Commissioner Enzor moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.
- Tab M Cherry, Patti Jo; present Application withdrawn and waived the 90-day requirement.
- Tab N Childs, Mary D.; not present Commissioner Furst moved; seconded by Commissioner Enzor to deny the application for sales associate; motion carried unanimously.
- Tab O Cooksey, Michael B.; not present Commissioner Enzor moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.
- Tab P Corcoran, Patricia C.; not present Application withdrawn.
- Tab Q Cruz, Gustavo F.; present Commissioner Enzor moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.
- Tab R Cuesta, Sean M.; present Commissioner Ruffier moved; seconded by Commissioner Enzor to approve the application for sales associate; motion carried unanimously.
- Tab T Davenport, Erica R.; present Commissioner Enzor moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.
- Tab U Dawkins, Adrienne; not present Applicant requested a continuance and waived the 90-day requirement.
- Tab V De Lorie, Steven M.; present Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.
- Tab X Dutton, Whitney J.; present Commissioner Enzor moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.
- Tab Y Eres, Steven A.; present Commissioner Enzor moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried unanimously.
- Tab Z Ferguson, Vickie M.; present Commissioner Boring moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried 5 to 1.
- Tab AA Fisher, Carol; present Application withdrawn and waived the 90-day requirement.

Tab AG – Gilbertson, Steven S.; present – Commissioner Enzor moved; seconded by Commissioner Furst to approve the application for broker; motion carried unanimously.

Tab AB – Foreman, Dave; present – Application withdrawn and waived the 90-day requirement.

Tab AC – Friedman, Valerie A.; present – Application withdrawn and waived the 90-day requirement.

Tab AE – Garcia, Manuel A.; present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 4 to 2.

Tab AJ – Grimsley, Charles E.; present – Application withdrawn and waived the 90-day requirement.

Tab AK – Gross, Dustin M.; present – Commissioner Boring moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab AL – Guerrero, Nelson H. Jr.; not present – Applicant requested a continuance and waived the 90-day requirement.

Tab AM – Guzman, Atahualpa; present – Application withdrawn and waived the 90-day requirement.

Tab AN – Halphen, Osvaldo Jr.; present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab AO – Harms, Jason E.; present – Commissioner Enzor moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab A – Helgemo, Cory R.; present – Informal Hearing – Applicant withdrew his appeal for an informal hearing. Commissioner Ruffier moved; seconded by Commissioner Boring to vacate the Notice of Intent to Deny the Commission previously entered regarding the application for sales associate. Application withdrawn and waived the 90-day requirement.

Tab AP – Hernandez, Jack D.; not present – Application withdrawn.

Tab AQ – Hightower, Nicklous; present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 5 to 1.

Tab AR – Hurter, Stephanie A.; present – Commissioner Furst moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab AS – Iglesias, Jorge L.; present – Commissioner Furst moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 5 to 1.

Tab AT – Johnson, Derrick A.; present – Commissioner Enzor moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab AU – Julius, David E.; present – Commissioner McCoig moved; seconded by Commissioner Enzor to approve the application for sales associate; motion carried unanimously.

Tab AV – Katz, Steven M.; present – Commissioner Boring moved; seconded by Commissioner McCoig to approve the application for broker; motion carried unanimously.

Tab AW – Koch, Robert O. Jr.; present – Application withdrawn and waived the 90-day requirement.

Tab AX – Kruger, Robert; not present – Applicant requested a continuance and waived the 90-day requirement. Commissioner McCoig moved; seconded by Commissioner Enzor to grant the continuance, motion carried unanimously.

Tab AZ – Lopez Valentin, Milton; present – Application withdrawn and waived the 90-day requirement.

Tab BA – Lopez, Jorge L. Jr.; present – Commissioner Furst moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried 5 to 1.

Tab BB – Lucas, John P.; present – Application withdrawn and waived the 90-day requirement.

Tab BC – Masso, Anthony A.; present – Commissioner Furst moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 4 to 2.

Tab BF – Miranda, Jesus; present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab BI – Murray, Natouchtka O.; present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab BJ – Noel, Garry; not present – Applicant requested a continuance and waived the 90-day requirement.

Tab BL – Ortiz, Dora M.; not present – Application withdrawn and waived the 90-day requirement.

Tab BN – Poirer, Thomas; present – Commissioner McCoig moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried unanimously.

Tab BO – Puckett, Laura L.; not present – Applicant requested a continuance and waived the 90-day requirement.

Tab BQ – Quddus, Maria; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried 4 to 2.

Tab BU – Ruiz, Enrique J.; present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for broker; motion carried 4 to 2.

Tab BV – Russo, Paul T.; present – Applicant requested a continuance and waived the 90-day requirement.

Tab BW- Sabio, Eric I.; present – Commissioner Enzor moved; seconded by Commissioner McCoig to deny the application for sales associate; tie vote. Application withdrawn and waived the 90-day requirement.

- Tab BY Sarno, Ryan; present Application withdrawn and waived the 90-day requirement.
- Tab BZ Schagrin, Greg B.; present Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 4 to 2.
- Tab CA Shanley, Christopher; present Applicant requested a continuance and waived the 90-day requirement.
- Tab CE Spencer Richard Lee III.; present Applicant requested a continuance and waived the 90-day requirement.
- Tab B Thomas, Kimberlee M.; present Informal Hearing Applicant withdrew her appeal for an informal hearing. Commissioner Ruffier moved; seconded by Commissioner Furst to vacate the Notice of Intent to Deny the Commission previously entered regarding the application for sales associate. Application withdrawn and waived the 90-day requirement.
- Tab CJ Turner, James D.; present Application withdrawn.
- Tab CL Valencia, Juan F.; present Applicant requested a continuance and waived the 90-day requirement.
- Tab CN Valin, Jonathon I.; present Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.
- Tab CP Vizcaino, Alexis; present Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.
- Tab S Cuozzo, Paul; not present Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.
- Tab W Duarte, Delia M.; not present Commissioner Ruffier moved; seconded by Commissioner Furst to deny the application for broker; motion carried unanimously.
- Tab AF Gibson, Joshua W.; not present Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; tie vote. No action taken.
- Tab AH Gonzalez, Jaime F. not present Commissioner Ruffier moved; seconded by Commissioner Furst to deny the application for sales associate; motion carried unanimously.
- Tab AI Gray, Thomas N.; not present Commissioner Ruffier moved; seconded by Commissioner Enzor to deny the application for broker; motion carried unanimously.
- Tab BD McClary, Shawn; not present Commissioner Enzor moved; seconded by Commissioner McCoig to deny the application for sales associate; motion failed. Commissioner Furst moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 5 to 1.
- Tab BE Metellus, Samuel L.; not present Commissioner McCoig moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab BK – Oporta, Alba E.; not present – Commissioner Ruffier moved; seconded by Commissioner Boring to deny the application for sales associate; motion carried unanimously.

Tab BM – Pierson, Kevin; not present – Commissioner Ruffier moved; seconded by Commissioner Enzor to deny the application for sales associate; motion carried unanimously.

Tab BP – Qehajaj, Visar; not present – Commissioner Enzor moved; seconded by Commissioner Boring to deny the application for sales associate; motion carried unanimously.

Tab BR – Ramirez, Roberto M.; not present – Commissioner Furst moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab BX- Sanchez, Alvaro; not present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab CD – Smith, Jay A.; not present – Commissioner Ruffier moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab CF – St. Vill, Phanuel; not present – Commissioner Enzor moved; seconded by Commissioner Boring to deny the application for sales associate; motion carried 4 to 2.

Tab CG – St. Pierre, Carl; not present – Commissioner Enzor moved; seconded by Commissioner Boring to deny the application for sales associate; motion carried unanimously.

Tab CH – Tavares, Daniel J.; not present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab CI – Thomas, Michael J.; not present – Commissioner Ruffier moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab CK – Urueta, Mike M.; not present – Commissioner Furst moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried 5 to 1.

Tab CM – Valente, Alexia; not present – Commissioner Ruffier moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab CO – VanLaanen, Juliana N.; not present – Commissioner McCoig moved; seconded by Commissioner Enzor to approve the application for sales associate; motion carried unanimously.

Tab CQ – Williams, Justin D.; not present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried 5 to 1.

Director's Remarks

Director Watkins deferred all comments to the August meeting. Director Watkins asked that the record reflect that Chair DeNapoli's absences on July 19 and 20, 2011, are excused. Vice-Chair Guju stated that it is so noted.

Commission's Comments

Commissioner McCoig stated that questions number one on the real estate licensure application has given the Commission quite a few interesting stories and requested to add this topic for discussion at the August meeting. Commissioner Boring added perhaps the application should also state if they have any questions to please consult with their attorney.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 12:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for August 30 and 31, 2011, in Orlando, Florida.

Michael Giju, Vice Chair

Florida Real Estate Commission

viana C. Watkins, Director

Florida Real Estate Commission