

Ken Lawson, Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
August 21 and 22, 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 21st day of August, 2012.

The following Commission members were in attendance: Chair Darla Furst, Vice-Chair Chip Boring, Roger Enzor, Michael Guju, Poul Hornsleth and Josh Podolsky. Commissioner 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: Tim Vacarro, Deputy Secretary; Denise Johnson, Deputy Director; Patrick Cunningham, Chief Attorney; Megan Demartini, Andrew Fier, Joshua Kendrick and Leigh Matchett, Assistant General Counsels; Jocelyn Pomales, Operation Management Consultant II; JoEllen Peacock, Education Coordinator; Janice Taylor, Government Analyst I; Johanne Knudson, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court services.

Approval of the Minutes

Commissioner Guju moved; seconded by Commissioner Enzor to approve the Minutes of the July 17 and 18, 2012, General Meeting, as written. The motion passed without dissent.

Unlicensed Activity Report

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

Financial Reports Ending March 31, 2012

Deputy Secretary Vacarro and Deputy Director Johnson presented the Financial Reports ending March 31, 2012, and addressed questions and comments from the Commission.

Report Regarding Enforcement Trends and Escrow Audits

Deputy Director Johnson presented the report regarding Complaint Trends and Escrow Audits. The Commission entered into discussion. Department staff addressed questions and comments from the Commission.

Monthly Exam Performance Summary Report

Deputy Director Johnson presented the monthly Exam Performance Summary Report and addressed comments from the Commission.

Report Regarding Legal Case Activity

Chief Attorney Cunningham presented the monthly report regarding legal case activity and addressed comments and questions from the Commission.

Legal Agenda Schedule

Escrow Disbursement Orders

Assistant General Counsel Joseph Solla presented 15 Escrow Disbursement Orders and 1 Order for the Commission's consideration. Mr. Solla stated that item D was settled. Commissioner Hornsleth moved to accept the 14 Escrow Disbursement Orders and 1 Order. Commissioner Podolsky seconded the motion. The motion passed without dissent.

Recovery Fund Claim

Tab A – Miriam Moore v. Kristin E. Flores, DBPR Case No. 2012023331

There were no appearances on behalf of either party. Ms. Flores was represented by David Piccolo, Esquire, not 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 \$10,000.00. Commissioner Enzor seconded the motion. The motion passed without dissent.

Tab B – Vivian Nicole-Goldberg v. Luis Monsalves, DBPR Case No. 2012021663

Mr. Monsalves was not present, but was represented by Daniel Villazon, Esquire, present. The Claimant was not present and was represented by Randy Goldberg, Esquire, also not 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 \$9,000.00. Commissioner Podolsky seconded the motion. The motion passed without dissent.

Legal Final Order Docket

Agenda B, Tab B – Osvaldo D. Delgado, SL 708462, Case No. 2011034510 – Settlement Stipulation

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

Mr. Fier represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Hornsleth moved; seconded by Vice-Chair Boring to accept the Stipulated Settlement dismissing Count II of the Administrative Complaint. The motion passed 4 to 1.

Penalty imposed: \$500.00 fine, investigative costs, must attend one 2-day FREC meeting. **Violation:** Section 475.25(1)(f), Florida Statutes, pled nolo contendere to a crime which directly relates to the activities of a sales associate, or involves moral turpitude or fraudulent or dishonest dealings. Respondent neither admits nor denies the violations as alleged in the Administrative Complaint.

Action taken: Settlement Stipulation accepted.

Tab K – Stephen Marabel, BK 381024, Case No. 2011003063 – Settlement Stipulation

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

Ms. Demartini represented the Department and presented the case to the Commission. Commissioner Hornsleth moved; seconded by Commissioner Podolsky to accept the Stipulated Settlement, dismissing Count II, and amending the publication language to clarify the alleged charges. The motion passed without dissent.

Penalty imposed: \$1,250.00 fine; investigative costs, attend the 30-hour broker post-license course, attend one 2-day meeting; **Violation:** The Administrative Complaint alleges violations of Section 475.5015, Florida Statutes, and 475.25(1)(e), Florida Statutes by violating Rule 61J2-14.012(1), Florida Administrative Code. Respondent neither admits nor denies the violations as alleged in Administrative Complaint.

Action taken: Settlement Stipulation accepted.

Tab O – Steven Austin Sessions, BK 657917, Case No. 2010002177 – Settlement Stipulation

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

Mr. Fier represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner Podolsky to accept the Stipulated Settlement dismissing Counts I, II, III, IV and VI of the Administrative Complaint. The motion passed without dissent.

Penalty imposed: \$500.00 fine, investigative costs, 12 months probation, must attend one 2-day FREC meeting; **Violation:** Guilty of failing to report in writing within 30 days after the licensee is convicted or found guilty, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction, in violation of Section 455.227(1)(t), Florida Statutes.

Action taken: Settlement Stipulation accepted.

Tab L – Thierry Pauquet, BK 3223904, Case No. 2011031161 – Settlement Stipulation

Respondent was present and represented by Daniel Villazon, Esquire, also present. Commissioner Podolsky 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 Vice-Chair Boring to accept the Stipulated Settlement. The motion passed 4 to 1.

Penalty imposed: \$500.00 fine, investigative costs, shall attend an escrow management class. **Violation:** Respondent violated Section 475.25(1)(k), Florida Statutes, by failing to place \$55,000.00 into escrow. Respondent neither admits nor denies the violations as alleged in the Administrative Complaint.

Action taken: Settlement Stipulation accepted.

Tab M – Michael Jacob Piwko, SL 707518, Case No. 2011022677 – Settlement Stipulation

Respondent was present and represented by J. Luis Quintana, Esquire, also present. Commissioner DeNapoli served on the probable cause panel. Commissioner DeNapoli was excused and was not in attendance.

Mr. Kendrick 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 as amended. The motion passed 5 to 1.

Penalty imposed: \$1,000.00 fine, investigative costs, shall attend one FREC-approved 45-hour post-licensure course. **Violation:** Respondent violated Section 475.25(1)(p), Florida Statutes, by failing to timely report to the FREC his plea of nolo contendere to a felony; violated Section 455.227(1)(t), Florida Statutes by failing to timely report to the FREC his plea of nolo contendere to a misdemeanor. Respondent neither admits nor denies the violations as alleged in the Administrative Complaint.

Action taken: Settlement Stipulation accepted.

Tab N – Diane Lisa Ryan, SL 439471, Case No. 2008026327 – Settlement Stipulation

Respondent was present and represented by Gary Nagle, Esquire, not present. Commissioner DeNapoli served on the probable cause panel. Commissioner DeNapoli was excused and was not in attendance.

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

Penalty imposed: \$500.00 fine, investigative costs; **Violation:** Respondent violated Section 475.42(1)(b), Florida Statutes (2007). As listing agent, Respondent executed an offer for the purchase of real property, and, if consummated, she expected to receive compensation. Respondent neither admits nor denies the violations as alleged in the Administrative Complaint.

Action taken: Settlement Stipulation accepted.

Tab G – Myava L. Rodriguez, BK 674853, Case No. 2011000371 – 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 Guju; motion passed without dissent to find the Respondent guilty as charged in the Administrative

Complaint. Commissioner Enzor moved, seconded by Vice-Chair Boring; motion passed 5 to 1 to impose the following sanctions:

Action Taken: Revocation, investigative costs. **Violation:** Respondent violated Section 475.25(1)(e), Florida Statutes, by failing to comply with the Commission's October 22, 2009, Final Order.

Agenda A, Tab I; Agenda B, Tab A – Madelyn Anabet Andrade, SL 3188906, Case Nos. 2009009635 and 2011038614 – Respondent's Request for a Reconsideration of the Final Orders

Respondent was 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 entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner Podolsky to modify the Final Order filed December 22, 2010, to either complete the 2-day FREC meeting or complete a 28-hour reactivation course and to modify the Final Order filed May 21, 2012, to pay the balance of \$288.75 and to keep the suspension and upon providing proof of compliance of the education and fine to the department the suspension will be lifted. The motion passed 4 to 1.

Action Taken: Final Orders modified.

Agenda A

Tab A – Glenda Chauncy, SL 613324, Case No. 2011031374 – 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 served on the probable cause panel. Commissioner Podolsky was excused and was not in attendance.

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

Action Taken: Revocation, investigative costs. **Violation:** Respondent violated Section 455.227(1)(k), Florida Statutes, by failing to timely comply with a Final Order of the Florida Office of Financial Regulation.

Tab B – Yolanda M. Concepcion, BK 347264, Case No. 2010047735 – Petitioner's Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

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

Action Taken: Revocation, investigative costs. **Violation:** Respondent violated Section 475.25(1)(d)1, Florida Statutes, when Respondent failed to pay the civil judgment entered against her for non payment of a real estate commission.

Tab C – Cristine Marie Hollingsworth, SL 3185032, Case No. 2011051102 – Respondent’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 Respondent requested a continuance. The Commission entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner Guju to continue the case until September 18, 2012. The motion passed 4 to 1.

Action Taken: Case continued until September 18, 2012.

Tab D – James G. Kops, SL 552731, Case No. 2010014226 – Petitioner’s Request for an Informal Hearing, and if Granted, Conduct an Informal Hearing

Respondent was not present and not represented by counsel. Commissioner Enzor 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 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, investigative costs. **Violation:** Respondent violated Section 475.25(1)(f), Florida Statutes, when he was convicted or found guilty of Violation of Securities Law Rules/Orders.

Tab E – Barbara Lockett, SL 3021127, Case No. 2011029407 – Voluntary Relinquishment of License

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

Mr. Kendrick represented the department and presented the case to the Commission. Commissioner Enzor moved, seconded by Commissioner Guju 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 F – Harry M. Long, SL 3033435, Case No. 2011061132 – Voluntary Relinquishment of License

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

Mr. Kendrick represented the department and presented the case to the Commission. Commissioner Enzor moved, seconded by Commissioner Podolsky 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 H – Stephen Brett Sokolow, BK 3036743, Case No. 2011058476 – 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 Guju; 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, \$3,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25(1)(d)1, Florida Statutes, by failing to return a deposit upon demand; violated Section 475.25(1)(e), Florida Statutes, by violation Rule 61J2-14.010(1), Florida Administrative Code, by failing to place an escrow deposit in an escrow account; violated Section 475.25(1)(b), Florida Statutes, having been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme, or device, culpable negligence, or breach of trust in any business transaction.

Tab J – Thomas Gnipp, BK 3076697, Case No. 2009065191 – Settlement Stipulation

Respondent was not present and represented by E. Raymond Shope, Esquire, also not present. No current members were recused due to participation on the probable cause panel.

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

Action Taken: Settlement Stipulation denied.

Tab T – Theodore Schenk, BK 77995, Case No. 2009048631 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

Respondent was not present and not represented by counsel. Commissioner Enzor 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 Podolsky; motion carried unanimously 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:

Penalty imposed: Revocation, \$2,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25 (1)(f), Florida Statutes, when he was found guilty of Conspiracy to Violate the Racketeering Influence and Corruption Organization Act (RICO); violation Section 475.25(1)(p), Florida Statutes, when he failed to inform the commission in writing within 30 days after pleading guilty or being convicted of the RICO Act.

Tab P – Lisa Clemmer, BK 539660, Case No. 2011016187 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

Respondent was not present and not represented by counsel. Commissioner Guju 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 Commissioner Podolsky; motion carried unanimously 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:

Penalty imposed: Revocation, \$5,000.00 fine, investigative costs. **Violation:** Respondent violated Section 475.5015, Florida Statutes, and 475.25(1)(e), Florida Statutes, by failing to provide upon request by the department any records for her brokerage business; violated Section 475.25(1)(b), Florida Statutes, by being guilty of fraud, misrepresentation, dishonest dealings or breach of trust.

Tab Q – Diana P. Restrepo, SL 3011267, Case No. 2010028769 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

Respondent was not present and not represented by counsel. Commissioner DeNapoli served on the probable cause panel. Commissioner DeNapoli was excused and was not in attendance.

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 Commissioner Podolsky; 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, \$3,500.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25 (1)(b), Florida Statutes (2005), by violating a duty imposed upon her or him by law or by them terms of a listing contract, written, oral, express, or implied, in a real estate transaction; violated Section 475.25(1)(l), Florida Statutes (2005), by either directly or indirectly, creating an inflated recorded sales price with the Property Appraiser.

Tab R – Diana P. Restrepo, SL 3011267, Case No. 2010028774 – Petitioner’s Motion for Finding of Waiver and Enter a Final Order

Respondent was not present and not represented by counsel. Commissioner DeNapoli served on the probable cause panel. Commissioner DeNapoli was excused and was not in attendance.

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 Commissioner Podolsky; 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, \$3,500.00 fine, investigative costs. **Violation:** Respondent violated Section 475.25 (1)(b), Florida Statutes (2005), by violating a duty imposed upon her or him by law or by them terms of a listing contract, written, oral, express, or implied, in a real estate transaction; violated Section

475.25(1)(l), Florida Statutes (2005), by either directly or indirectly, creating an inflated recorded sales price with the Property Appraiser.

Tab S – Risk Management Realty II, Inc., CQ 1039907, Case No. 2011051075 – 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 Podolsky moved, seconded by Commissioner Enzor; motion carried unanimously 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:

Penalty imposed: Revocation. **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.

General Session continued

Rule Development Workshop

Rule 61J2-3.011 – Notices of Satisfactory Course Completion

Deputy Director Johnson presented this rule for the Commission’s review. FREC Counsel Barnhart stated the purpose this workshop is to amend the language to comply with statutory changes and to correct a rule referenced after Law Implemented. The Commission entered into discussion. Commissioner Guju moved; seconded by Commissioner Podolsky; motion carried unanimously to move forward with the rule making process and amend the rule as follows:

- (1) Any person holding “school instructor” permits shall recertify competency during each permit period by satisfactorily completing 7 classroom or distance learning hours of instruction and/or instructional techniques as prescribed and conducted by the Commission. A school instructor is not required to complete the 7 hours of recertification education as a condition for initial permit renewal if the time between the effective date on the initial permit as an instructor and the beginning of the initial renewal permit is less than 12 months. Of the required 7 classroom or distance learning hours, up to 3 hours may be applied toward the continuing education core law requirement for licensure pursuant to Rule 61J2-3.009, F.A.C.
- (2) through (3) – No change.

Rulemaking Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.451(2)(e)(b) FS.

FREC Counsel Barnhart presented the department’s Statement of Estimated Regulatory Costs for the Commission’s consideration. The Commission considered the Statement of Estimated Regulatory Costs and agreed that there are no costs in association with the change to this rule. Commissioner Guju moved to accept the proposed determination of impact on small businesses. Commissioner Podolsky seconded the motion. The motion passed without dissent.

Rule 61J2-3.013 – Distance Education Courses for Hardship Cases

Deputy Director Johnson presented this rule for the Commission's review. FREC Counsel Barnhart stated the purpose this workshop is to amend the language to expand the definition of hardship. The Commission entered into discussion. Commissioner Hornsleth moved; seconded by Commissioner Podolsky; motion carried unanimously to move forward with the rule making process and amend the rule as follows:

(1) Distance Education courses containing the same subject matter and requiring substantially the same assignment work will be prescribed by the Commission for any person who by reason of hardship cannot attend the place for classroom instruction prescribed in Rules 61J2-3.008, 61J2-3.010 and 61J2-3.020, F.A.C., or does not have access to the distance learning course or courses. The scholastic standards and other related requirements will be substantially the same as the courses offered by classroom instruction, having due regard, however, to the different method of presentation. A copy of the course and all course materials shall be submitted to the Commission for evaluation at least 60 days prior to use. The approval or denial of the course will be based on the extent to which the course complies with the requirements set forth in Rule 61J2-3.008, 61J2-3.009, or 61J2-3.020, F.A.C. Examinations, if required, must test the course material. If course approval is denied, the institution or school may resubmit the course, with the mandated changes.

(2) A hardship case includes: (a) a licensee's long term illness or an illness involving a close relative or person for whom the licensee has care-giving responsibilities; (b) the required course is not reasonably available; and (c) the licensee has an economic, technological, or legal hardship that substantially relates to the ability to complete continuing education requirements. ~~is defined as a case wherein a person desiring to take the Commission prescribed courses cannot, by reason of a physical disability, attend the place where the classes are conducted.~~

(3) No change.

Rulemaking Specific Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.04, 475.17(2), 475.451(3), (6) FS.

FREC Counsel Barnhart presented the department's Statement of Estimated Regulatory Costs for the Commission's consideration. The Commission considered the Statement of Estimated Regulatory Costs and agreed that there are no costs in association with the change to this rule. Commissioner Guju moved to accept the proposed determination of impact on small businesses. Commissioner Hornsleth seconded the motion. The motion passed without dissent.

Rule 61J2-5.018 – Vacancies of Office

Deputy Director Johnson presented this rule for the Commission's review. Ms. Johnson stated the purpose this workshop is to discuss adding proposed language to address how to fulfill the needs of the office until a new broker is appointed in the event of death or incapacitation of the qualifying broker. The Commission received comments from Attorney Margy Grant of Florida Realtors. After discussion, the Commission tabled the rule until a future meeting to allow time to submit revised language. Commissioner Hornsleth moved; seconded by Commissioner Podolsky; motion carried unanimously to table this rule discussion for a future meeting.

Rule Workshop

Rule 61J2-2.027 – Application by Individuals

Deputy Director Johnson presented this rule for the Commission's review. Ms. Johnson stated the purpose this workshop is to amend the language to comply with statutory changes. The Commission entered into

discussion. Commissioner Hornsleth moved; seconded by Vice-Chair Boring; motion carried unanimously to move forward with the rule making process and modify rule language as follows:

Section (1) – change 12 to 24 in sections 1. through 3.;

change the tabbed numbers under Section (1)(b) to lowercase Roman numbers;

Section (2)(a) – change language to mirror the language as stated on question 1 of the of the applications for initial licensure;

Section (2)(b) – delete the language and re-alphabetize thereafter, (c) and (d) to (b) and (c);

Section (2)(c) – change to mirror the language as stated on question 4 of the applications for initial licensure;

Section (3) – Each application shall be accompanied by a completed FBI fingerprint card for processing, applicant must submit digital fingerprint data for processing to determine if the applicant has a criminal history record.

Section (4) – No change.

FREC Counsel Barnhart presented the department's Statement of Estimated Regulatory Costs for the Commission's consideration. The Commission considered the Statement of Estimated Regulatory Costs and agreed that there are no costs in association with the change to this rule. Vice-Chair Boring moved to accept the proposed determination of impact on small businesses. Commissioner Podolsky seconded the motion. The motion passed without dissent.

Rule 61J2-14.008 – Definitions

Deputy Director Johnson presented this rule for the Commission's review. Chair Furst stated the purpose this workshop is to discuss the language in Section (2)(b) relating to deposits placed with a title company or an attorney. The Commission received comments from Attorney Margy Grant of Florida Realtors. After discussion, the Commission suggested to table the rule until a future meeting to allow time to submit proposed language for further discussion. Commissioner Hornsleth moved; seconded by Commissioner Podolsky; motion carried unanimously to table this rule discussion for a future meeting.

Discussion Regarding Ideas for 2013 Legislative Session

Deputy Director Johnson stated that the division is crafting the 2013 Legislative Session package and that Director Watkins wanted to encourage the Commission to submit any ideas they may have they would like to see in the proposal. The Commission received a comment from Ms. Rodgers of Bert Rodgers Schools of Real Estate, Inc. relating to course approvals.

General Workshop – Effects of Loss Mitigation on Real Estate Transactions

Chair Furst stated that the purpose of this workshop was to discuss whether certain services provided real estate licensees relating to short sales not fall under the provisions of Section 475.01, Florida Statutes, and/or the unlicensed practice of law by the Florida Bar. The Commission received comments from Margy Grant, General Counsel for Florida Realtors, Marcia Tabak, Deputy General Counsel for Florida Realtors, Randy Schwartz, Esquire and Michael Haire, Esquire. Ms. Tabak stated there are a few parameters the Unlicensed Practice of Law (UPL) Committee has established, with regard to negotiating short sales and determining whether it is considered the practice of law. Ms. Tabak added that the UPL Committee considers each matter on a case by case basis. The Commission also inquired whether the department has authority over licensees regarding complaints received that result from a short sale. The general consensus of the participants was that the department can review the complaints on a case by case basis under Section 475.25(1)(b), Florida Statutes.

In conclusion, Chair Furst thanked everyone immensely for their participation in this discussion and that she finds comfort in knowing that the department simply directs callers to Section 475.01, Florida Statutes and suggests that the individual contact an attorney experienced in these matters. Chair Furst stated that the Commissioners will continue to look at these types of complaints on a case by case basis when brought before them. Chair Furst stated that there is an official program of the Departments of the Treasury & Housing and Urban Development which directs the consumer to valuable information relating to distressed properties and they have a great counseling service which is attorney staffed. The website is www.makinghomeaffordable.gov.

Consent Agenda, Agenda A

The Commission considered 155 applicants from the Consent Agenda; Commissioner Hornsleth moved; seconded by Commissioner Guju to approve 125 applicants and require 30 applicants to be placed on the Summary of Applicant Agenda; the motion passed without dissent.

The following applicants were approved:

Anderson, Angela	Hunter, Tiffany	Pena, Daniel
Angiuli, Anthony	Imangulov, Rustam	Perez, Edgardo
Arbanas, Joseph	Jimenez, Ruben	Perez, Heather
Arbelaez, Jorge	Joanos, James Jr.	Plaster, Catherine
Arriaga, Richard	Johnson, Devana	Polk, Christa
Bengochea, Gabriel	Kaigler, Marcella	Powers, Richard
Bonamie, Nathan	King, Aaron	Preston, Erika
Brandon, Morrison	Kovacs, Kenneth	Qiao, Huicun
Brewer, John	Lachance, Juliana	Rarick, Lennon
Brown, Alex	Lefew, Curtis	Rendo, Brenden
Brown, Mandi	Libell, Carol	Rey, Daniel
Byers, Angela	Littrell, Amber	Rimes, Rodney
Chaffiot, Eric	Look, Dawn	Rivera, Jose
Clouse, James	Luque, David-Jr.	Rocha, Walbert
Costa, Luis	Mac Namee, James	Rodriguez, Antonio Jr.
Cottrell, Michael	Macia, Federico	Rosado, Jesus
Crain, Paul	Mack, Charles	Ross, Martin
Cruz Riveros, Celio	Macomber, Josef	Rota, Marilianna
Cullen, Thomas	Magette, David III	Ruiz, Angel
Curran, Michael	Martin, Julie	Samuel, Lee
Davidson, Brad	Martinez, Carissa	Scherwitz, Tamara
Davila, Martin	McGahey, Michael	Schiller, Adam
Determan, Elizabeth	McQuade, Christopher	Seminario, Jean
Dinkins, Stephenie	Medlock, Larry	Shaffer, Danny
Drummond, Toshia	Mejia, Jaime	Shahoori, Masud
Dumas, Joshua	Melton Grant, Eleanor	Shelton, Rashon
Englund, Jerry	Millman, Tara	Shelton, Wesley
Farquhar, Robert	Minerd, James Jr.	Skutnik, Yuri
Fazekas, Laszlo	Montalvo, Jannette	Small, Jordan
Felder, Kevin	Morris, Charlotte	Studstill, William
Fields, Jeffrey	Moser, James	Tindle, Joseph
Fortunato, Khristina	Neill, Susan	Uribe, Jennifer
Frometa, Jeankarlos	Nellen, Cathy	Valentine, Jessa
Garcia, Stacie	Nichols, Leonard	Vannavong, David
Geer, Cynthia	O Neill, Gerard	Ventura, Luis
Giroud, Nestor	Olin Leon, Noah	Viera, Harold
Gonzalez, Daniel	Ombres, Jon	Wentz, Joseph Sr.

Gralia, Hugo
Guillen, Enrique
Haffa, Florian
Halstead, Jason
Hart, Joseph II

Ortega, Zulay
Osborn, Scott
Parker, Heather
Patino, Guillermo
Peak, Daniel

Wright, Larry
Wright, Zachary
Zaboura, Esa
Zanvardine, David

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

Abercrombie, Ashley
Achcar, Caoi
Allen, Brian
Arouh, Leslie
Bauer, Brian
Baxter, John
Brizendine, Judith
Condon, January
Coy, Larry
Dix, Niya

Dyer, Tiesha
Estrada, Steven
Gentile, Jennifer
Hernandez, Edwin Jr.
Kass, Nelson
Krisanda, Michaela
Ledbetter, Phillip
Locicero, Joseph
Loebker, Brian
Malut, Vivek

McBride, Trevor
Miller, David Jr.
Navarro, Claudia
Rivera, Javier
Shabir, Abdul
Tucker, Brindley
Tyner, Wesley
Vazquez, Anthony
Wadelton, William III
Zuniga, Carlos

Applicant Consent Agenda B

The Commission considered 2 applicants from the Consent Agenda B; Commissioner Guju moved; seconded by Commissioner Hornsleth to approve 1 applicant; the motion passed without dissent.

The following applicant was approved:

Santana, Daniel

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

Spath, Matthew

Public Comments

The Commission received comments from the audience.

There being no further business and no objection, the Chair recessed the meeting at approximately 4:25 p.m. until 8:30 a.m. tomorrow.

August 22, 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 22nd day of August, 2012.

The following Commission members were in attendance: Chair Darla Furst, Vice-Chair Chip Boring, Roger Enzor, Michael Guju, Poul Hornsleth and Josh Podolsky. Commissioner 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: Denise Johnson, Deputy Director; Patrick Cunningham, Chief Attorney; Josh Kendrick, 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.

Special Agenda

Correspondence from Applicant David L. John

Deputy Director Johnson presented a letter received from David L. John requesting that the Commission allow him to use experience as a sales associate he accumulated with a former broker in order to qualify to submit a broker application. Mr. John appeared in support of his request. The Commission entered into discussion. Commissioner Podolsky moved; seconded by Vice-Chair Boring to approve Mr. John's request; the motion passed 5 to 1.

Correspondence from Tracy Stephens Greene

Deputy Director Johnson presented a letter received from Tracy Stephens Greene requesting that the Commission grant an extension for her March 31, 2012 renewal to allow her to renew late. Ms. Greene appeared in support of her request. The Commission entered into discussion. Vice-Chair Boring moved; seconded by Commissioner Podolsky to approve Ms. Greene's request; the motion passed without dissent.

Summary of Applicants

OMC II Jocelyn Pomaes presented 68 Summary of Applicants requesting to sit for the real estate examination.

Tab D -- Zoila M. Azpeitia, present; represented by Bob Dwyer, Esquire, also present -- Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for broker; the motion passed without dissent.

Tab AS -- Asia K. Oliver, not present; represented by Bob Dwyer, Esquire, present -- Applicant requested a continuance to September. Commissioner Guju moved; seconded by Commissioner Hornsleth to grant a continuance; the motion passed without dissent.

Tab BB -- Donald A. Quade, II, not present; represented by Bob Dwyer, Esquire, present -- Vice-Chair Boring moved; seconded by Commissioner Guju to approve the application for sales associate; the motion passed 5 to 1.

Tab AH -- Ariel Lopez, not present; represented by Bob Dwyer, Esquire, present -- Applicant withdrew the application and waived the 90-day requirement.

Tab U -- Jerry A. Gaddis, not present; represented by Daniel Villazon, Esquire, also present -- Applicant withdrew the application and waived the 90-day requirement.

Tab AY -- Brittne R. Parker, not present; represented by Daniel Villazon, Esquire, also present -- Applicant withdrew the application and waived the 90-day requirement.

Tab BH -- Adrian Salgado, present; represented by Nancy Campiglia, Esquire -- Commissioner Podolsky moved; seconded by Commissioner Enzor to deny the application for broker; the motion passed without dissent.

Tab A – Glenn A. Williams, present – informal hearing – The applicant withdrew the informal hearing request and withdrew the application.

Tab B – Nicholas C. Abate, not present – The applicant requested a continuance until September 2012.

Tab C – Russell P. Abbott, present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for broker; the motion passed without dissent.

Tab E – Susan D. Battah Hiorn, not present – Commissioner Podolsky moved; seconded by Commissioner Enzor to deny the application for sales associate; the motion passed without dissent.

Tab F – Barbara Berger, not present – Commissioner Enzor moved; seconded by Vice-Chair Boring to deny the application for sales associate; the motion passed without dissent.

Tab G – David A. Boehme, not present – Vice-Chair Boring moved; seconded by Commissioner Podolsky to approve the application for broker; the motion passed without dissent.

Tab H – Lepperla Botello, not present – Commissioner Enzor moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab I – Frank J. Braider, III, present – Commissioner Podolsky moved; seconded by Vice-Chair Boring to approve the application for broker; the motion passed without dissent.

Tab J – Benjamin D. H. Broome, present – Commissioner Podolsky moved; seconded by Commissioner Guju to approve the application for sales associate; the motion passed without dissent.

Tab K – Williams J. Cameron, present – Commissioner Podolsky moved; seconded by Vice-Chair Boring to approve the application for sales associate; the motion passed without dissent.

Tab L – O.J. Lawter Cardet, not present – Commissioner Guju moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab M – Donald Charnin, not present – Commissioner Guju moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab N – Diana Christie, present – Commissioner Hornsleth moved; seconded by Vice-Chair Boring to approve the application for sales associate; the motion passed 4 to 2.

Tab O – Laniqueka L. Clements, present – Applicant withdrew the application and waived the 90-day requirement.

Tab P – Jonathan R. Coffey, present – Commissioner Podolsky moved; seconded by Vice-Chair Boring to approve the application for sales associate; the motion passed without dissent.

Tab Q – Thiago Costa, present – Applicant withdrew the application and waived the 90-day requirement.

Tab R – Shari D. A. Dickerson, not present – Commissioner Podolsky moved; seconded by Commissioner Enzor to deny the application for sales associate; the motion passed without dissent.

Tab S – Jhonathan Dymaniski, present – Commissioner Podolsky moved; seconded by Commissioner Hornsleth to approve the application for sales associate; the motion passed without dissent.

Tab T – Adam Edgington, not present – Applicant withdrew the application.

Tab V – Pandwe A. Gibson, not present – Commissioner Podolsky moved; seconded by Vice-Chair Boring to deny the application for sales associate; the motion passed without dissent.

Tab W – Charles G. Guy, not present – Commissioner Podolsky moved; seconded by Commissioner Hornsleth to deny the application for sales associate; the motion passed without dissent.

Tab X – Christine A. Hall, present – Commissioner Enzor moved; seconded by Vice-Chair Boring to approve the application for sales associate; the motion passed without dissent.

Tab Y – Dennis Hill, present – Applicant withdrew the application and waived the 90-day requirement.

Tab Z – Jermell T. Jenkins, not present – Commissioner Podolsky moved; seconded by Commissioner Hornsleth to approve the application for sales associate; the motion passed 5 to 1.

Tab AA – Ronnie R. Johnson, present – Commissioner Hornsleth moved; seconded by Vice-Chair Boring to approve the application for sales associate; the motion passed 5 to 1.

Tab AB – Philip Kallberg, not present – Applicant withdrew the application and waived the 90-day requirement.

Tab AC – Elizabeth C. Kellerman, not present – Commissioner Enzor moved; seconded by Commissioner Guju to deny the application for sales associate; the motion passed 5 to 1.

Tab AD – Stanislav A. Kotlyar, not present – Commissioner Podolsky moved; seconded by Commissioner Enzor to deny the application for sales associate; the motion passed without dissent.

Tab AE – Kim LeBlanc, present – Applicant withdrew the application and waived the 90-day requirement.

Tab AF – Frank Liu, present – Commissioner Guju moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed 5 for and 1 abstained.

Tab AG – Geoffrey M. Llorca, not present – Commissioner Podolsky moved; seconded by Vice-Chair Boring to deny the application for sales associate; the motion passed without dissent.

Tab AI – Theron Lord., present – Commissioner Guju moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab AJ – Kenneth Lyn, present – Commissioner Guju moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab AK – Bill Manrique, present – Applicant withdrew the application and waived the 90-day requirement.

Tab AL – Edward McNaught, not present – Applicant requested to reschedule until October 2012.

Tab AM – Todd Meady, not present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab AN – Justin L. Merchant, not present – Applicant withdrew the application.

Tab AO – Robert S. Morrison, present – Commissioner Podolsky moved; seconded by Commissioner Guju to approve the application for sales associate; the motion passed without dissent.

Tab AP – Josie Mustelier, not present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab AQ – Kayla Nobles., present – Commissioner Guju moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed without dissent.

Tab AR – Michelle S. O'Brien, not present – Commissioner Enzor moved; seconded by Commissioner Guju to deny the application for sales associate; the motion passed without dissent.

Tab AT – Freddy E. Orjuela, present – Commissioner Podolsky moved; seconded by Vice-Chair Boring to approve the application for sales associate; the motion passed without dissent.

Tab AU – Andres L. Orta, present – Commissioner Hornsleth moved; seconded by Vice-Chair Boring to approve the application for sales associate; the motion passed without dissent.

Tab AV – Jose A. Pagan, II, not present – Commissioner Hornsleth moved; seconded by Commissioner Guju to approve the application for sales associate; the motion passed without dissent.

Tab AW – Paul Jon Paradis, present – Commissioner Podolsky moved; seconded by Vice-Chair Boring to approve the application for sales associate; the motion passed without dissent.

Tab AX – Ann B. Pareja, present – Commissioner Hornsleth moved; seconded by Vice-Chair Boring to approve the application for broker; the motion passed without dissent.

Tab AZ – Frances Ann Parker, present – Commissioner Guju moved; seconded by Commissioner Hornsleth to approve the application for sales associate; the motion passed without dissent.

Tab BA – Yesenia Puntiel Hernandez, present – Commissioner Hornsleth moved; seconded by Commissioner Guju to approve the application for sales associate; the motion passed without dissent.

Tab BC – David A. Quimby, present – Commissioner Podolsky moved; seconded by Commissioner Guju to approve the application for sales associate; the motion passed without dissent.

Tab BD – Walt M. Radford, not present – Commissioner Hornsleth moved; seconded by Vice-Chair Boring to approve the application for sales associate upon condition; the motion passed without dissent.

Tab BE – Leyanis, Redondo, present – Commissioner Podolsky moved; seconded by Commissioner Guju to approve the application for sales associate; the motion passed without dissent.

Tab BF – Michael Richel, present – Commissioner Enzor moved; seconded by Commissioner Podolsky to approve the application for sales associate; the motion passed 5 to 1.

Tab BG – Andrey Rossin, present – Vice-Chair Boring moved; seconded by Commissioner Hornsleth to approve the application for broker; tie vote, no action taken.

Tab BI – Chad W. Salter, not present – Commissioner Podolsky moved; seconded by Commissioner Guju to deny the application for sales associate; the motion passed without dissent.

Tab BJ – Alejandro L. Sixto., present – Commissioner Podolsky moved; seconded by Vice-Chair Boring to approve the application for sales associate; the motion passed without dissent.

Tab BK – Alyson Terrell, present – Commissioner Podolsky moved; seconded by Commissioner Enzor to approve the application for sales associate; the motion passed without dissent.

Tab BL – Evan D. Turner, present – Applicant withdrew the application.

Tab BM – Sarah Vasquez, present – Application continued; applicant waived the 90-day requirement.

Tab BN – Derrick A. Wilson, present – Applicant withdrew the application and waived the 90-day requirement.

Tab BO – Steven A. Wright, not present – Commissioner Hornsleth moved; seconded by Commissioner Podolsky to deny the application for sales associate; the motion passed without dissent.

Tab BP – Antonio S. Yunez, present – Applicant withdrew the application and waived the 90-day requirement.

Deputy Director's Comments

Deputy Director Johnson reported that Secretary Lawson will be facilitating a Crime Symposium on October 26, 2012, at the FAMU College of Law in Orlando, which will be posted on the Department's website. She also reported the date and location of the upcoming instructor seminar.

Commission Remarks

Chair Furst stated that Deputy Director Johnson did a phenomenal job filling in for Director Watkins.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 4:15 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for September 17 and 18, 2012, in Orlando, Florida.



Darla Furst, Chair
Florida Real Estate Commission



Denise Johnson, Deputy Director
Florida Real Estate Commission