

Charles W. Drago, Secretary

Charlie Crist, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
October 20 and 21, 2009
General Meeting**

Chair Ralph McCoig called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, Florida, on this 20th day of October, 2009.

The following Commission members were in attendance: Chair Ralph McCoig, Vice-Chair Roger Enzor, Richard DeNapoli, Poul Hornsleth, Michael Guju and John Ruffier. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Thomas O'Bryant, Jr., Director and Executive Director; Juana Watkins, Deputy Director; James P. Harwood, Chief Attorney; Brad Koshland, Bureau Chief of Enforcement; Jennifer Blakeman, Patrick Cunningham, Joseph Solla, Senior Attorneys; JoEllen Peacock, Education Coordinator; Denise Johnson, OMC II; Peter Patterson, Government Analyst; Lori Crawford, Regulatory Supervisor/Consultant; Sandra Veiga, Investigator II; Jacques Rigaud, Unlicensed Activity. American Court Reporting, Inc. (407) 896-1813 provided court reporter services.

Approval of the Minutes

Commissioner Ruffier moved; Commissioner Guju seconded to approve the Minutes of the September 15 and 16, 2009, General Meeting, as amended. Motion carried unanimously.

Unlicensed Activity Report

Director O'Bryant presented the Unlicensed Activity Report and addressed questions from the Commissioners. Vice-Chair Enzor moved to approve the report; Commissioner Guju seconded; motion carried unanimously.

Review and Consideration of the Real Estate Continuing Education Courses

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

1. Self Directed Retirement Plans Real Estate & Non Traditional Investments – New Course
– Application No. 1109

Commissioner Ruffier moved to deny the continuing education course listed above as it does not comply with Section 475.182, F.S. Commissioner Guju seconded the motion. The motion passed 5 to 1.

2. Body Language and Other Negotiation Skills for Real Estate Agents – New Course – Application No. 11036

Commissioner Hornsleth moved to deny the continuing education course listed above as it does not comply with Section 475.182, *F.S.* Commissioner DeNapoli seconded the motion. The motion carried unanimously.

3. Indoor Air Quality Building Forensics – New Course – Application No. 10896

Commissioner Ruffier moved to deny the continuing education course listed above as it does not comply with Section 475.182, *F.S.* Commissioner DeNapoli seconded the motion. The motion carried unanimously.

4. The Real Estate Diet Coaching – New Course – Application No. 12184

Commissioner Guju moved to deny the continuing education course listed above as it does not comply with Section 475.182, *F.S.* Commissioner DeNapoli seconded the motion. The motion carried unanimously.

5. Red Flags Property Inspection Guide – New Course – Application No. 12287

Commissioner DeNapoli moved to deny the continuing education course listed above based on lack of specificity and it does not comply with Section 475.182, *F.S.* Commissioner Hornsleth seconded the motion. The motion carried unanimously.

Exam Performance Report

Director O'Bryant presented the Pearson/Vue Exam Performance Summary Report for the Commission's review. Director O'Bryant addressed comments and questions from the Commission.

Communication from Edyna Garcia

Director O'Bryant presented an email received from Ms. Garcia. Director O'Bryant explained that as a result of issues dealing with personal security, the Board of Cosmetology discontinued printing addresses on cosmetology licenses for the safety of its licensees. Ms. Garcia is requesting the Department of Business of Professional Regulation, Division of Real Estate consider adopting this policy. The Commissioners entered into discussion. Director O'Bryant stated he would be happy to obtain additional information regarding this issue. Commissioner Ruffier requested the Department address the issue if home addresses of the licensees are available from the Department's portal. Director O'Bryant agreed.

FAR Letter Regarding HVCC

Director O'Bryant presented a letter from President Cynthia C. Shelton, Florida Association of Realtors, which asks the Commission to hold hearings on the Home Valuation Code of Conduct and its impact on the real estate industry. Director O'Bryant stated that the Department found nothing to preclude the Commission from contacting House Financial Services Committee Chair, Mr. Barney Frank to hold hearings regarding the HVCC and its impact on the real estate industry. Director O'Bryant suggested that the Commission provide specific questions to Mr. Barnhart and stated that any opinion the Commission provides regarding this issue will be

independent and shall not be considered the Department's position. Director O'Bryant addressed questions and comments from the Commission. Chair McCoig asked the Commissioner how they wish to proceed. Director O'Bryant stated that it appears that FAR is requesting the Commission ask Mr. Frank to hold an 18-month moratorium on this particular issue and if the Commission has questions on how to accomplish contact with their Federal lobbyist Mr. Barnhart would be able to provide specific directions. Chair McCoig thanked Director O'Bryant and stated the Commissioners will discuss this issue at a later date and bring back a letter stating the stance of the Commission.

Discussion on Rule 61J2-24.001

Director O'Bryant presented Rule 61J2-24.001, F.A.C. and the letters received from JAPC outlining its questions and comments concerning the rule. Mr. Barnhart stated that JAPC is asking the Commission to review each penalty and divide the penalties into a minimum and maximum for each offense. Mr. Barnhart addressed questions and comments from the Commission. Mr. Barnhart will provide a draft for the Commission's review next month.

Nominations of Chair and Vice-Chair

Chair McCoig opened the floor for nominations.

Commissioner Hornsleth moved for the nomination of Vice-Chair Roger Enzor as Chair. Commissioner Guju seconded the motion. The motion carried unanimously.

Vice-Chair Enzor moved for the nomination of Richard DeNapoli for the position of Vice-Chair. Commissioner Guju seconded the motion. The motion carried unanimously.

Schedule Biennial Rule Review Workshop

Director O'Bryant requested the Commission schedule the Biennial Rule Review Workshop as required by statute for December. Chair McCoig approved the request hearing no objections.

Escrow Disbursement Orders

Attorney Joseph Solla presented 45 Escrow Disbursement Orders and 1 Order for the Commission's consideration. Upon recommendation of the Legal Section, the Commission issued 45 Escrow Disbursement Orders and 1 Order. Commissioner Hornsleth moved to approve the Legal Section recommendation. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

Recovery Fund Claim Final Order

Pamatarr Ndure and Lynette Belmar v. Tammy Dyk – DBPR Case No. 2009043881. Senior Attorney Solla presented this matter to the Commission. Neither the licensee nor the claimant was present. Mr. Solla advised that the claimant qualifies statutorily to receive payment from the recovery fund and recommended the Commission approve the request. The Commission considered the facts. Commissioner Hornsleth moved to approve payment in the amount of \$50,000.00. Vice-Chair Enzor seconded the motion. The motion carried unanimously.

ERA Showcase and Barbara Keller v. DBPR – DBPR Case No. 2009012146. Senior Attorney Solla presented this matter to the Commission. The claimant was not present. Mr. Solla advised that the claimant qualifies statutorily to receive payment from the recovery fund and

recommended the Commission approve the request. The Commission considered the facts. Commissioner Hornsleth moved to approve payment in the amount of \$3,711.00. Commissioner DeNapoli seconded the motion. The motion carried unanimously.

Legal Final Order Docket

Tab T – Craig A. Lycan, SL 663204, Case No. 2002008433 – Modification of Final Order

Mr. Lycan was present and represented by Jim Gray, Esquire. No current members were recused due to participation on the probable case panel.

Mr. Harwood represented the Department and presented the case to the Commission. Commissioner Guju moved to deny the Respondent's request to modify the Final Order issued June 7, 2004 and Commissioner Hornsleth second the motion; motion passed 5 to 1.

Action taken: Request denied.

Tab X – William Russell Pierce, SL 646618, Case No. 2008031359 – Settlement Agreement

Mr. Pierce was present and represented by Steven W. Johnson, Esquire. Mr. Roger Enzor was recused due to participation on the probable cause panel.

Mr. Cunningham represented the Department and presented the case to the Commission. Commissioner Hornsleth moved; seconded by Commissioner Ruffier to accept the Settlement Agreement. Motion failed 3 to 2. Commissioner Guju moved; seconded by Commissioner DeNapoli to deny the Settlement Agreement. Motion passed 4 to 1.

Action taken: Settlement agreement rejected.

Tab B (Addendum B) – Maria D. Roldan, SL 3194822, Case No. 2008068194 – Petitioner's Request for an Informal Hearing

Ms. Roldan not was present; Daniel Villazon, Esquire, appeared on her behalf. Mr. Michael Guju was recused due to participation on the probable cause panel.

Mr. Cunningham represented the Department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner Hornsleth; motion carried unanimously to find the Respondent guilty of all counts. Commissioner Ruffier moved, seconded by Commissioner Hornsleth; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke. **Violation:** Guilty of having been convicted or found guilty of or entered a plea of nolo contendere to, regardless of adjudication, a crime which directly relates to the activities of a licensed real estate sales associate or that involves moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(l)(f), Florida Statutes; and guilty of being confined in a state or federal prison thereby being in violation of Section 475.25(1)(n), Florida Statutes.

Tab I – Yvonne E. Forbes, SL 3159096, Case No. 2008041335 – Petitioner's Request for an Informal Hearing

Ms. Forbes was present without her counsel Michael Schneider, Esquire. Mr. John Ruffier was recused due to participation on the probable cause panel.

Mr. Harwood represented the Department and presented the case to the Commission. Ms. Forbes requested the case be continued. Commissioner Guju moved, seconded by Commissioner DeNapoli to deny Ms. Forbes request; motion carried unanimously. The Commission granted the Informal Hearing and entered into discussion. Commissioner Hornsleth moved, seconded by Vice-Chair Enzor; motion carried unanimously to find the Respondent guilty of all counts. Commissioner Guju moved, seconded by Hornsleth; motion carried unanimously to impose the following sanctions:

Penalty imposed: \$160.00 costs, 60-day suspension, 6 months probation, attend one 2-day FREC general meeting. **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(l)(f), Florida Statutes; and 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 and, therefore, is in violation of Section 475.25(1)(p), Florida Statutes.

Tab W – Eda A. Deleon, BK 3052589, Case No. 2008040344; Manhattan Realty Group, Inc., CQ 1024134, Case No. 2008040346 – Settlement Agreement

Ms. Deleon not was present; Justin Clark, Esquire, appeared on her behalf. Commissioner Guju was recused due to participation on the probable cause panel.

Ms. Blakeman represented the Department and presented the case to the Commission. Commissioner DeNapoli moved to accept the Settlement Agreement. Commissioner Ruffier seconded the motion. Motion passed 4 to 1.

Penalty imposed: Respondent Deleon – \$336.60 costs, license suspended for a period of 4 months, must attend 10 hours of education in escrow matters; Respondent Manhattan Realty Group, Inc. - \$359.70 costs. **Violation:** guilty of failure to maintain trust funds in the real estate brokerage escrow bank account or some other proper depository until disbursement thereof was properly authorized in violation of Section 475.25(1)(k), Florida Statutes, guilty of failure to immediately deposit trust funds in violation of Rule 61J2-14.010 of the Florida Administrative Code and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Action taken: Settlement Agreement accepted

Tab K – Joaquin Gutierrez, BK 625118, Case No. 2008059543 – Respondent’s Motion for an Informal Hearing

Joaquin Gutierrez was present and not represented by counsel. Commissioner Hornsleth 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 Ruffier moved to find the Respondent not guilty of Count I and dismiss the case. Motion failed for lack of a second. Commissioner DeNapoli moved, seconded by Vice-Chair Enzor; motion carried unanimously to find the Respondent guilty of Count I. Commissioner Guju moved, seconded by Commissioner DeNapoli; motion carried unanimously to impose the following sanctions:

Penalty imposed: Reprimand, \$379.50 costs, 6 months probation. **Violation:** guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes.

Tab A (addendum B) – James W. Green, BK 666394, Case No. 2008029991 – Respondent’s Request for Reconsideration of Final Order

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

Mr. Harwood represented the Department and presented the case to the Commission. Commissioner Hornsleth moved, seconded by Commissioner Ruffier; motion passed 4 to 1 to grant the Respondent’s request. The Commission entered into discussion. Commissioner Hornsleth moved, seconded by Commissioner Ruffier; motion passed 4 to 1 to modify the Final Order and impose the following sanctions:

Penalty Imposed: Final Order modified to change suspension to a letter of reprimand; all other provisions remain the same, which included, \$500 fine, \$234.00 costs, 1 year probation. **Violation:** Guilty of failing to account or deliver a share of a real estate commission is 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 terms of the judgment within a reasonable time in accordance with Section 475.25(1)(d)1, Florida Statutes; guilty of violating a duty imposed upon him by law or by the terms of a listing contract, written, oral, express, or implied in a real estate transaction in accordance with 475.25(1)(b), Florida Statutes.

Action taken: Reconsideration granted.

Tab P – Enrique Suarez, BK 126121, Case No. 2008030762 – Petitioner’s Motion for an Informal Hearing

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

Ms. Blakeman 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 Vice-Chair Enzor; motion carried unanimously to find the Respondent guilty of all counts. Commissioner Ruffier moved, seconded by Commissioner Guju; motion passed 4 to 1 to impose the following sanctions:

Penalty imposed: Reprimand, \$462 costs due within 6 months. **Violation:** Guilty of failure to, once a month, make a written statement comparing the broker’s total liability with the reconciled bank balance(s) of all trust accounts and when the trust liability and the bank balances do not agree, failure to note a description or explanation for the difference(s) and any corrective action taken in reference to shortages or overages of funds in the account(s) in violation of Rule 61J2-14.012(2) and (3) of the Florida Administrative Code and is, therefore, in violation of Section 475.25(1)(e), Florida Statutes; and guilty of having failed to review broker’s trust accounting procedure in violation of Section 475.25(1)(v), Florida Statutes.

Tab E, F, G, H – Joy M. Floyd, BL 457238, Case Nos. 2008046137, 2008048874, 2008050509, 2008056358, 2008060614 – Petitioner’s Request for an Informal Hearing

Ms. Floyd was present and was not represented by counsel. Commissioner Enzor 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 DeNapoli moved, seconded by Commissioner Guju; motion carried unanimously to continue the cases for 30 days.

Action taken: Cases continued.

Tab A – Anthony Alexander, BK 684990, Case No. 2008030458 – Recommended Order

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

Ms. Blakeman represented the Department and presented the case to the Commission. Neither party filed exceptions. The Commission considered the Recommended Order and entered into discussions. Commissioner Guju moved, seconded by Commissioner DeNapoli to accept the Recommended Order; motion carried unanimously.

Penalty imposed: Revoke; \$1,000.00 fine, \$874.50 costs. **Violation:** guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes.

Tab B – Nestor G. Mendoza, BK 156850 and BK 3190745, Case No. 2007027590; Diamonds Realty of Miami Beach, Inc., CQ 1011331, Case No. 2008002439– Recommended Order, Exceptions

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

Mr. Cunningham represented the Department and presented the case to the Commission. Mr. Cunningham filed exceptions on behalf of the Department. The Commission considered the Recommended Order of the Administrative Law Judge’s recommendation of a 5-year suspension and \$2,000.00 fine. The Commission entered into discussion. Commissioner Hornsleth moved to increase the penalty from a suspension to revocation and leave the \$2,000.00 fine in place. Seconded by Commissioner Ruffier; motion carried unanimously.

Penalty imposed: Revoke all licenses; \$2,000.00 fine jointly and severally. **Violation:** Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes; guilty of failure to account or deliver funds in violation of Section 475.25(1)(d)1, Florida Statutes.

Tab D – Luis Diaz, BK 3107916, Case No. 2009021425 – Voluntary Surrender of Licensure for Permanent Revocation

Mr. Diaz was not present. No current members were recused due to participation on the probable case panel.

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

Penalty imposed: Revoked.

Tab L – Osbelia Lazard, SL 3192676, Case No. 2008064940 – Respondent’s Motion for an Informal Hearing

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

Mr. Cunningham represented the Department and presented the case to the Commission. The Commission granted the Informal Hearing and entered into discussion. Commissioner Guju moved, seconded by Commissioner DeNapoli; motion carried unanimously to find the Respondent guilty of all counts. Commissioner Guju moved, seconded by Commissioner Ruffier; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke. **Violation:** 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 and, therefore, is in violation of Section 475.25(1)(p), Florida Statutes; guilty of having been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime which directly relates to the activities of a licensed real estate sales associate or that involves moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(l)(f), Florida Statutes; guilty of being confined in a state or federal prison thereby being in violation of Section 475.25(1)(n), Florida Statutes.

Tab M – Charles R. Pennington, BK 3010751, Case No. 2008059543 – Respondent’s Motion for an Informal Hearing

Charles R. Pennington was not present and not represented by counsel. Commissioner Hornsleth was recused due to participation on the probable cause panel.

Ms. Blakeman represented the Department and presented the case to the Commission. The Commission granted the Informal Hearing and entered into discussion. Commissioner Guju moved, seconded by Commissioner DeNapoli; motion carried unanimously to find the Respondent guilty of all counts. Commissioner Guju moved, seconded by Commissioner Ruffier; motion carried unanimously to impose the following sanctions:

Penalty imposed: \$500.00 fine, \$686.40 costs, 12 months probation, and attend two 2-day FREC general meetings. **Violation:** guilty of having employed any person as a sales associate who is not the holder of a valid and current license as sales associate in violation of Section 475.42(1)(c), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Tab O – Marc Alan Salonsky, SL 3124643, Case No. 2009020704 – Voluntary Surrender of Licensure for Permanent Revocation

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

Mr. Harwood represented the Department and presented the case to the Commission. Commissioner DeNapoli moved, seconded by Commissioner Guju to accept the Affidavit for the Voluntary Surrender of License for Permanent Revocation; motion carried unanimously.

Penalty imposed: Revoked.

Tab Q – Xin Feng Yao, SL 3105509, Case No. 2009008369 – Respondent’s Motion for an Informal Hearing

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

Ms. Blakeman represented the Department and presented the case to the Commission. The Commission granted the Informal Hearing and entered into discussion. Commissioner Guju moved, seconded by Commissioner DeNapoli; motion carried unanimously to find the Respondent guilty of all counts. Commissioner Guju moved, seconded by Commissioner Ruffier; motion carried unanimously to impose the following sanctions:

Penalty imposed: \$500.00 fine, \$636.90 costs, 12 months probation, and attend two 2-day FREC general meetings. **Violation:** Guilty of having operated as a broker or sales associate without being the holder of a valid and current license in violation of Section 475.42(1)(a), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Tab S – Barrington Irving, BK 584715, Case No. 2007061838 – Respondent’s Request for Reconsideration

Neither Mr. Barrington nor his counsel Ms. Macaluso was present. Commissioner Hornsleth 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 reconsideration and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner DeNapoli; motion carried unanimously to vacate the Final Order set the case aside pending settlement negotiations.

Action taken: Final Order vacated.

Tab U – Isabel Aldana, BK 635160 and 3141907, Case No. 2005026136 – Settle Agreement

Neither Ms. Aldana nor her counsel Ms. Passaro was present. Commissioner DeNapoli was recused due to participation on the probable cause panel.

Mr. Cunningham represented the Department and presented the case to the Commission. Commissioner Ruffier moved to accept the Settlement Agreement. Commissioner Hornsleth seconded the motion. Motion carried unanimously.

Penalty imposed: \$750.00 fine, \$514.80 costs, 24 months probation, attend two 2-day FREC general meetings. **Violation:** Guilty of failure to preserve and make available to the Petitioner, all books, records, and supporting documents and failed to keep an accurate account of all trust fund transactions in violation of Rule 61J2-14.012 (1), Florida Administrative Code and Section 475.5015, Florida Statutes, and therefore, in violation of Section 475.25(1)(e), the Florida Statutes.

Action taken: Settlement Agreement accepted.

Tab C – Donald Charnin, BK 567199, Case Nos. 2009006682, 2008068171; Nationwide Real Estate Services, Inc., CQ 1002202, Case Nos. 2009014369, 2009022582 – Petitioner’s Informal

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

Ms. Blakeman represented the Department and presented the case to the Commission. The Commission granted the Informal Hearing and entered into discussion. Commissioner Guju moved, seconded by Commissioner DeNapoli; motion carried unanimously to find the Respondents guilty of all counts. Commissioner Guju moved, seconded by Commissioner DeNapoli; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoked, \$1,237.50 costs (Charnin), \$165.00 costs (Nationwide). **Violation:** guilty of failure 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, abstract of title, mortgage, conveyance, lease, or other document or thing of value, including a share of a real estate commission if 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 terms of the judgment within a reasonable time, or any secret or illegal profit, or any divisible share or portion thereof, which has come into the licensee’s hands and which is not the licensee’s property or which the licensee is not in law or equity entitled to retain under the circumstances, in violation of Section 475.25(1)(d)1., Florida Statutes; fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes; failure to immediately place, upon receipt, any money, fund, deposit, check, or draft entrusted to her or him by any person dealing with her or him as a broker in escrow with a title company, banking institution credit union, or savings and loan association located and doing business in this state, or to deposit such funds in a trust or escrow account maintained by her or him with some bank, credit union, or savings and loan association located and doing business in this state, wherein the funds shall be kept until disbursement thereof is properly authorized; or has failed, if a sales associate to immediately place with her or his registered employer any money, fund, deposit, check, or draft entrusted to her or him by any person dealing with her or him as agent of the registered employer in violation of Section 475.25(1)(k), Florida Statutes.

The following cases were withdrawn from the docket and not presented to the Commission for discussion:

- Tab J – Lucina D. Guerrero
- Tab R – Joy M. Floyd
- Tab V – America’s First Choice Real Estate, Inc.

There being no further business and no objection, the Chair adjourned the meeting at approximately 4:00p.m.

October 21, 2009

Chair Ralph McCoig reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:50a.m., in Orlando, on this 21st day of October, 2009.

The following Commission members were in attendance: Chair Ralph McCoig, Vice-Chair Roger Enzor, Richard DeNapoli, Poul Hornsleth, Michael Guju and John Ruffier. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Thomas W. O'Bryant Jr., Director; Juana Watkins, Deputy Director, James P. Harwood, Chief Attorney, Bradford Koshland, Bureau Chief of Enforcement, Dana Moss and Nicole McClair, Senior Attorneys; Denise Johnson, OMC II; Jeannie Adkinson, Regulatory Specialist III; JoEllen Peacock, Education Coordinator; Sandra Veiga, Investigator II; Jacques Rigaud, Unlicensed Activity; Lori Crawford, Regulatory Supervisor/Consultant; American Court Reporting, Inc. (407) 896-1813, provided court reporter services.

Consent Agenda

The Commission considered 51 applicants from the Consent Agenda; Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to approve 37 applicants and require 14 applicants to be placed on the Summary of Applicant Agenda; motion carried unanimously.

The following applicants were approved:

Acevedo, Johnny	Akanbi, Babajide N.	Barber, William S. Jr.
Bell, Randolph S.	Carter, Bevis James	Catania, Peter M. III
Clark, James L. III	Davis, Danny L.	Deen, Joy Monroe
Diss, Laura Q.	Drayton, Kethan L.	Faria, Gustavo
Golden, Ronnie L.	Gombos, Jill Ann	Gonzalez, Emiliano
Greenwood, Alex R.	Gunger, Sandra E.	Hegner, John W.
Holtry, Rachel L.	Horton, Allison M.	Jones, David Acker
Jones, Rebekah L.	Latchman, Franklin	Luque, Nelly
Lutz, Wayne R.	Mansur, Michael	McGregor, Jennifer
Owens, Kathe D.	Pulitano, Dominic M.	Rose, Alex
Smith, Rodney	Studl, Kay Ashley C.	Waltman, Bryan Keith
Wilcox, Ryan Richard	Winschel, Lori A.	Wlodyka, Carl Michael
Wunder, David		

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

Bachus, Leigh A.	Bustamonte, Mark a.	Coto, Leticia
Cuevas, Denis	Escardo, Ana M.	Estell, Robert W. Jr.
Estrada, Joseph J.	Kemp, Jazzmine	Komskis, Rebecca L.
Pinera, Dixidela	Randa, Susie C.	Rasheed, Enrique A.
Truce, Nicole N.	Turner, Timothy Dean	

Summary of Applicants

Denise Johnson, OMC II, presented 50 Summary of Applicants requesting to sit for the real estate examination.

Tab E – Bentley, Sandra Kaye – Represented by Attorney Daniel Villazon; Commissioner DeNapoli moved to approve, seconded by Vice-Chair Enzor; motion carried unanimously.

Tab F – Bonie, Gene – Represented by Attorney Daniel Villazon; Commissioner Hornsleth moved to approve, seconded by Commissioner Guju; motion passed 5 to 1.

Tab N – Cardinale, Norman Alexander – Represented by Attorney Daniel Villazon; Vice-Chair Enzor moved to approve, seconded by Commissioner DeNapoli; motion carried unanimously.

Tab AG – Lindo, Jimmy – Represented by Attorney Daniel Villazon; Vice-Chair Enzor moved to approve, seconded by Commissioner Ruffier; motion passed 5 to 1.

Tab AL – Nobles, Homer L. III – Represented by Attorney Daniel Villazon; Commissioner Ruffier moved to approve, seconded by Commissioner DeNapoli; motion carried unanimously.

Tab AN – Pabla, Surinder Singh – Represented by Attorney Daniel Villazon; Commissioner Guju moved to deny, seconded by Commissioner Ruffier; motion passed 4 to 2.

Tab BC – Va, David – Represented by Attorney Daniel Villazon; Commissioner Ruffier moved to approve, seconded by Commissioner DeNapoli; motion passed 5 to 1.

Tab BE – Williams, Joyce A. – Represented by Attorney Daniel Villazon; Vice-Chair Enzor moved to approve, seconded by Commissioner Guju; motion carried unanimously.

Tab BH – Zamora, Enrique – Represented by Attorney Daniel Villazon; Vice-Chair Enzor moved to approve, seconded by Commissioner Guju; motion carried unanimously.

Tab BI – Zelonker, Gabriel Shawn – Represented by Attorney Daniel Villazon; Commissioner Guju moved to approve, seconded by Vice-Chair Enzor; motion carried unanimously.

Tab A – Abraham-Sierra, Tiffany A.; present – Commissioner DeNapoli moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab B – Bachiller, Alexander; present – Commissioner Hornsleth moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab T – Dinov, Jacob – Represented by Attorney Daniel Villazon; Commissioner Ruffier moved to approve, seconded by Commissioner DeNapoli; motion carried unanimously.

Tab AE – Kozlovskaja, Svetlana A. – Represented by Attorney Daniel Villazon; Commissioner Guju moved to approve, seconded by Commissioner DeNapoli; motion passed 5 to 1.

Tab AR – Riera, Luis A. – Represented by Attorney Daniel Villazon; Commissioner Hornsleth moved to approve, seconded by Vice-Chair Enzor; motion carried unanimously.

Tab C – Baldassano, Leonard; present – Vice-Chair Enzor moved; seconded by Commissioner Ruffier to approve; motion carried unanimously.

Tab D – Beiningen, Kim A.; present – Commissioner Hornsleth moved; seconded by Commissioner Ruffier to approve; motion passed 4 to 2.

Tab G – Bradford, Lawrence Edward; not present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab H – Brevick, David Glenn; present – Vice-Chair Enzor moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab I – Brunton, David W.; not present – Commissioner DeNapoli moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab J – Butler, Pricilla Annette; not present – Application withdrawn and waived 90-day requirement.

Tab K – Caba, Victor M.; not present – Commissioner DeNapoli moved; seconded by Commissioner Ruffier to deny; motion carried unanimously.

Tab L – Cagliuso, Nancy; present – Vice-Chair Enzor moved; seconded by Commissioner Ruffier to approve; motion passed 5 to 1.

Tab M – Calhoun, William L.; present – Commissioner Guju moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab O – Correa, Camal E.; present – Commissioner Ruffier moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab P – Crespo, German B.; present – Vice-Chair Enzor moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab Q – D’Orazio, Melinda R.; present – Commissioner DeNapoli moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab R – Davenport, Erica R.; present – Application withdrawn and waived 90-day requirement.

Tab S – Davies, Lynn C.; present – Commissioner DeNapoli moved; seconded by Vice-Chair Enzor; motion carried unanimously.

Tab U – Draa, Christopher A.; present – Commissioner Ruffier moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab V – Echeverry, Julio C.; present – Commissioner Guju moved; seconded by Vice-Chair Enzor to approve; motion carried unanimously.

Tab W – Elliott, Jennifer S.; present – Commissioner Ruffier moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab X – Ellison, Karen M.; present – Commissioner DeNapoli moved; seconded by Vice-Chair Enzor to approve; motion carried unanimously.

Tab Y – Goldstein, Martin Joel; present – Commissioner Hornsleth moved; seconded by Commissioner Ruffier to approve; motion carried unanimously.

Tab Z – Gorham, Robin Joy; present – Commissioner Guju moved; seconded by Vice-Chair Enzor to approve; motion carried unanimously.

Tab AA – Hack, Reinhard M.; present – Commissioner Ruffier moved; seconded by Commissioner Guju to approve; motion passed 5 to 1.

Tab AB – Hankins, Deborah; not present – Commissioner Hornsleth moved; seconded by Vice-Chair Enzor to deny; motion carried unanimously.

Tab AC – Horn, Richard Karl, III; present – Vice-Chair Enzor moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab AD – Kovacsik, Justin; present – Commissioner DeNapoli moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Tab AF – Laudny, Hancy; present – Commissioner Ruffier moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab AH – MacFarlan, Mark S.; not present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to deny; motion carried unanimously.

Tab AI – Meme, Nadia; present – Commissioner DeNapoli moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab AJ – Moss, Bradley Todd – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab AK – Navarro, Claudio; present – Commissioner Ruffier moved; seconded by Vice-Chair Enzor to approve; motion carried unanimously.

Tab AM – Nold, James Bartholomew; present – Commissioner Hornsleth moved; seconded by Vice-Chair Enzor to approve; motion carried unanimously.

Tab AO– Phillips, Marcus D.; present – Commissioner DeNapoli moved; seconded by Commissioner Ruffier to approve; motion carried unanimously.

Tab AP – Pitsokos, Michael Jean; present – Commissioner Guju moved; seconded by Vice-Chair Enzor to approve; motion carried unanimously.

Tab AQ – Rerisi, James R.; present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab AS – Robertson, Don Phillip; present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to deny; motion carried unanimously.

Tab AT – Rodriguez, Marcus R.; present – Commissioner Hornsleth moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab AU – Sawan, Dana; not present – Commissioner Ruffier moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab AV – Schultz, Andrew; present – Commissioner Guju moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab AW – Scott, Wayne J.; present – Vice-Chair Enzor moved; seconded by Commissioner DeNapoli to approve; motion carried unanimously.

Tab AX – Shepard, Hillard; present – Commissioner DeNapoli moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab AY – Silvers, Derrick D.; not present – Commissioner Hornsleth moved; seconded by Vice-Chair Enzor to deny; motion carried unanimously.

Tab AZ – Sobo, Diane Marie; present – Commissioner DeNapoli moved; seconded by Commissioner Guju to approve; motion passed 5 to 1.

Tab BA – Stafford, Tracy D.; not present – Commissioner Ruffier moved; seconded by Vice-Chair Enzor to approve; motion carried unanimously.

Tab BB – Teuchert, Casey; present – Commissioner Hornsleth moved; seconded by Commissioner Ruffier to approve; vote 3 to 3. No action taken.

Tab BD – Vilarchao, Lazaro Damian; not present – Vice-Chair Enzor moved; seconded by Commissioner Guju to deny; motion carried unanimously.

Tab BF – Wilson, Brian M.; not present – Commissioner Hornsleth moved; seconded by Commissioner Guju to deny; motion carried unanimously.

Tab BG – Wilson, Chris; not present – Commissioner DeNapoli moved; seconded by Commissioner Hornsleth to approve; motion carried unanimously.

Tab BJ – Zepeda, Campos; not present – Commissioner DeNapoli moved; seconded by Commissioner Guju to approve; motion carried unanimously.

Director's Comments

Director O'Bryant reported that the Department is in the final stages in completing EZ apply project and the new forms should be available within the next month.

Director O'Bryant also reported that he will be participating in the Attorney General's Housing crisis forum being held in Ft. Myers on Saturday, October 24, 2009.

Commission Remarks

Commissioner Guju congratulated Chair Elect Enzor and Vice-Chair Elect DeNapoli.

Vice-Chair Enzor wanted to thank the Commission for putting their faith in him as Chair.

Commissioner DeNapoli thanked everyone for their support for Vice-Chair.

Commissioner Hornsleth congratulated the incoming Chair and Vice-Chair and commended Chair McCoig for his service as Chair. Commissioner Hornsleth also stated that this is his last official month of service on the Commission and is appreciative all the help he has received from the people of the Division.

Director O'Bryant stated that if the Governor appoints a new member then this will be Commissioner Hornsleth's last meeting, however, if the Governor does not appoint a new member to fill the seat, Commissioner Hornsleth will continue to serve on the Commission.

Chair McCoig thanked Commissioner Hornsleth for his invaluable service. Chair McCoig also thanked DRE staff, FREC Counsel Tom Barnhart and Court Report Diana Garcia for their hard work during his term as Chair. He stated that in his 30 years on numerous boards, he can honestly say he has not served with a better group of individuals and it will be his honor and privilege to pass the gavel on to Chair-Elect Enzor.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 1:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for November 17 and 18, 2009, in Orlando, Florida.

Ralph McCoig, Chair
Florida Real Estate Commission

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