

Charlie Liem, Secretary

Charlie Crist, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
November 16 and 17, 2010
General Meeting**

Chair Richard DeNapoli called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, Florida, on this 16th day of November, 2010.

The following Commission members were in attendance: Chair Richard DeNapoli, Vice-Chair Michael Guju, Claude "Chip" Boring, Darla Furst, Roger Enzor, Ralph McCoig 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; James P. Harwood, Chief Attorney; Patrick Cunningham, Robert Minarcin, Joseph Solla, Senior Attorneys; Brad Koshland, Bureau Chief of Enforcement; JoEllen Peacock, Education Coordinator; Denise Johnson, OMC II; Jocelyn Pomales, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court reporter services.

Approval of the Minutes

Commissioner McCoig moved; Commissioner Enzor seconded to approve the Minutes of the October 19 and 20, 2010, General Meeting, as written. Motion carried unanimously.

Unlicensed Activity Report

Director O'Bryant presented the Unlicensed Activity Report and addressed questions from the Commission.

Monthly Exam Performance Summary Report

Director O'Bryant presented the Monthly Exam Performance Summary Report.

Report Regarding Broker Exam Update

Director O'Bryant presented a summary of the examination timeline for the broker exam update. Director O'Bryant also provided an outline of the categorical areas that will be covered on the examination. The Commission and Director O'Bryant addressed questions and comments from the audience. Ms. Linda Crawford of Dearborn Schools, requested that the outline be posted under the Education Section on the Division's webpage.

Escrow Disbursement Orders

Attorney Joseph Solla presented 25 Escrow Disbursement Orders and 4 Orders to interplead for the Commission's consideration. Upon recommendation of the Legal Section, the Commission issued 25 Escrow Disbursement Orders and 4 Orders. Commissioner Furst moved to approve the Legal Section recommendation. Commissioner Boring seconded the motion. The motion carried unanimously.

Recovery Fund Claim Final Order

DBPR v. Micki Page Realty, Inc. – DBPR Case No. 2010029094. Senior Attorney Solla presented this matter to the Commission. Attorney Nancy Campiglia appeared in support of the claim as the court-appointed receiver on behalf of the Micki Page Realty, Inc. Mr. Solla advised that the Claimant qualifies statutorily to receive payment from the recovery fund and recommended the Commission approve the request. The Commission considered the facts and circumstances. Commissioner McCoig moved to approve the order granting the claim in the amount of \$45,044.65. Commissioner Furst seconded the motion. The motion carried unanimously.

DOAH Recommended Order - Applicant

Wilbert A. Acosta v. DBPR, Florida Real Estate Commission – DOAH Case No. 10-4224

FREC Counsel Tom Barnhart presented the Recommended Order of the Administrative Law Judge. Petitioner was not present. The Commission considered the Recommended Order of the Division of Administrative Hearings recommending the Petitioner's application for licensure as a real estate sales associate be denied. Commissioner Ruffier moved to adopt the Findings of Fact and Conclusions of Law and accept the Recommended Order and issue an Order denying the applicant. Commissioner Enzor seconded the motion. The motion carried unanimously.

Legal Final Order Docket

Tab H – Tom Daugherty, SL 374280, Case No. 2010008460 – Respondent's Request for an Informal Hearing

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

Mr. Minarcin represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Vice-Chair Guju moved, seconded by Commissioner Enzor; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Mr. Minarcin requested that the case be withdrawn to amend the administrative complaint. Vice-Chair Guju moved, seconded by Commissioner Enzor; motion carried unanimously to vacate the previous motion finding the Respondent guilty as charged.

No action taken: Case withdrawn.

Tab F – Carl Lee Carr, BK 541391, Case No. 2009020923 – Petitioner's Request for an Informal Hearing

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

Mr. Cunningham represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Vice-Chair Guju moved, seconded by Commissioner McCoig; motion carried unanimously to find the Respondent guilty as charged. Commissioner Enzor moved, seconded by Vice-Chair Guju; motion carried 5 to 1 to impose the following sanctions:

Penalty imposed: 7 years suspension, \$2,000.00 fine, \$455.40 costs, 12 months probation, must attend two 2-day FREC general meetings. **Violation:** Guilty of not having informed the Florida Real Estate Commission in writing within thirty (30) days after pleading guilty or nolo contendere to, or being convicted or found guilty of a felony 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 in any jurisdiction which directly relates to the activities of a licensed broker or sales associate, or involves moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(1)(f), Florida Statutes.

Tab U – Stephen Austin Sessions, BK 657917, Case No. 2010002177 – Petitioner’s Request for an Informal Hearing

Respondent was present and was represented by Nancy P. Campiglia, Esquire, present. Vice-Chair Guju was recused due to participation on the probable cause panel.

Mr. Minarcin represented the department and presented the case to the Commission. Mr. Minarcin stated the Respondent is requesting a continuance and the department did not object. Commissioner McCoig moved, seconded by Commissioner Boring; motion carried unanimously to continue the matter to the next regular meeting of the FREC.

Action taken: Case continued.

Tab C – Lilli Ann Allen, BK 0695540, Case No. 2009027871; Petitioner’s Request for an Informal Hearing

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

Mr. Cunningham represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner McCoig moved, seconded by Commissioner Enzor to find the Respondent guilty as charged; motion failed 2 to 4. Commissioner Furst moved to dismiss Count I and to find the Respondent guilty of Count II of the Administrative Complaint, seconded by Vice-Chair Guju; motion failed 3 to 3. Commissioner McCoig moved, seconded by Commissioner Enzor to find the Respondent guilty as charged; motion failed 2 to 4. Vice-Chair Guju moved to dismiss Count I and to find the Respondent guilty of Count II of the Administrative Complaint, seconded by Commissioner Furst; motion carried 4 to 2. Vice-Chair Guju moved, seconded by Commissioner Furst; motion carried 5 to 1 to impose the following sanctions:

Penalty imposed: \$100.00 fine, \$72.60 costs, 6 months probation, attend one 2-day FREC meeting. **Violation:** Guilty of failure to account or deliver funds in violation of Section 475.25(1)(d)1., Florida Statutes.

Tab G – James Danesi, SL 681828, Case No. 2009018818 – Respondent’s Request for an Informal Hearing

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

Mr. Minarcin represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Furst moved, seconded by Commissioner Boring; motion carried unanimously to find the Respondent guilty as charged in the Amended Administrative Complaint. Commissioner Furst moved, seconded by Commissioner Boring; motion carried 4 to 1 to impose the following sanctions:

Penalty imposed: 5 years suspension, \$1,000.00 fine, \$462.00 costs. **Violation:** Guilty of having been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of a licensed broker or sales associate, or involves moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(1)(f), Florida Statutes; guilty of failing to report in writing to the Commission, within 30 days, upon entering a plea to a crime in any jurisdiction in violation of Section 455.227(1)(t), Florida Statutes (2009).

Tab M – Vernica M. Haynes, SL 3173666, Case No. 2010007452 – Respondent’s Request for an Informal Hearing

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

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

Penalty imposed: \$442.20 costs, attend one 2-day FREC meeting, 1 year probation to complete the sanctions of this order as well as the sanctions imposed in Final Order No. BPR-2008-06553. **Violation:** Guilty of having violated a lawful order of the Florida Real Estate Commission in violation of Section 475.42(1)(e), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Tab A – Marsha Evans Friels, SL 3141119; Case No. 2009048835 – Recommended Order, Exceptions

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

Mr. Solla represented the Department and presented the case to the Commission. Mr. Solla filed exceptions on behalf of the Petitioner. Ms. Friels filed a response to Petitioner’s Exceptions to Recommended Order which was provided to the Commission. Mr. Solla presented Exception I relating to the Conclusions of Law, paragraphs 37 and 42 and Exception II relating to the recommended penalty. The Commission entered into discussion. Commissioner Ruffier moved to accept the Recommended Order and adopt the Findings of Fact and Conclusions of Law subject to the two exceptions relating to paragraphs 37 and 42 of the Conclusions of Law and the recommended penalty; seconded by Commissioner McCoig, motion carried unanimously. Commission Ruffier

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

Penalty imposed: 30-day suspension, \$1,000 fine, \$752.40 costs, 1 year probation, attend one 2-day FREC meeting. **Violation:** Guilty of having operated as a sales associate without being the holder of a valid and current license as a sales associate in violation of Section 475.42(1)(a), Florida Statutes.

Tab B – Linda Johanna Iverson, BK 3184122, Case No. 2009025916 and Sanctum Stay Corp., CQ 1032989, Case No. 2009025918 – Recommended Order

Respondents were not present nor represented by counsel. Vice-Chair Guju was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. Neither party filed exceptions. The Commission considered the Recommended Order and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner Boring; motion carried unanimously to adopt the Findings of Fact and Conclusions of Law, accept the Recommended Order and imposes the following sanctions:

Penalty imposed: Respondent Iverson - 5 years suspension, \$2,000.00 fine; Respondent Sanctum Stay Corp. – 5 years suspension, \$2,000.00 fine. **Violation:** Guilty of failure to account or deliver funds in violation of Section 475.25(1)(d)1., Florida Statutes; guilty of having obstructed or hindered in any manner the enforcement of Chapter 475, Florida Statutes or the performance of any lawful duty by any person acting under the authority of Chapter 475, Florida Statutes in violation of Section 475.42(1)(i), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes; 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) of the Florida Administrative Code and, therefore, in violation of Section 475.25(1)(e), the Florida Statutes.

Tab D – Madelyn Andrade, SL 3188906, Case No. 2009009635; Petitioner’s Request for an Informal Hearing

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

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

Penalty imposed: 3 months suspension, \$1,000 fine, \$752.40 costs, 6 months probation, attend one 2-day FREC meeting. **Violation:** Guilty of having operated as a sales associate without being the holder of a valid and current license as a sales associate in violation of Section 475.42(1)(a), Florida Statutes.

Tab E – Edward E. Cambas, BK 454126, Case No. 2004025613 – Respondent’s Request for Reconsideration

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

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Furst moved, seconded by Vice-Chair Guju to deny Respondent's request for reconsideration. The motion carried unanimously.

Action taken: Reconsideration request denied.

Tab I – Kimberly Ann Fleak, SL 691841, Case No. 2008044439 – Petitioner's Request for an Informal Hearing

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

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

Penalty imposed: \$250 fine, \$290.40 costs, 6 months probation, attend one 2-day FREC meeting. **Violation:** Guilty of having violated a lawful order of the Florida Real Estate Commission in violation of Section 475.42(l)(e), Florida Statutes and, therefore, in violation of Section 475.25(l)(e), Florida Statutes.

Tab J – Rafael Garofalo, SL 3080294, Case No. 2008067236 – Petitioner's Request for an Informal Hearing

Respondent was not present and not represented by counsel. Chair DeNapoli 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 Ruffier moved, seconded by Commissioner Enzor; motion carried unanimously to find the Respondent guilty as charged in the Administrative Complaint. Commissioner Ruffier moved, seconded by Commissioner Enzor; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$653.40 costs. **Violation:** Guilty of having violated a lawful order of the Florida Real Estate Commission in violation of Section 475.42(l)(e), Florida Statutes and, therefore, in violation of Section 475.25(l)(e), Florida Statutes.

Tab L – Margaret E. Giresi, BK 504487, Case No. 2009064208 – Petitioner's Request for an Informal Hearing

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

Mr. Minarcin represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Vice-Chair Guju moved, seconded by Commissioner McCoig; motion carried unanimously to find the Respondent guilty as charged. Vice-Chair Guju moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$495.00 costs. **Violation:** Guilty of having been convicted of a crime involving moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(1)(f), Florida Statutes (2007); guilty of not having informed the Florida Real Estate Commission in writing within thirty (30) days after pleading guilty or nolo contendere to, or being convicted or found guilty of any felony in violation of Section 475.25(1)(p), Florida Statutes (2007).

Tab N – Troy S. Henson, SL 3059419, Case No. 2010002189; Petitioner’s Request for an Informal Hearing

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

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

Penalty imposed: Revoke, \$280.50 costs. **Violation:** Guilty of having been convicted of a crime involving moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(1)(f), Florida Statutes; guilty of being confined in any county jail, post adjudication; or being confined in any state or federal prison in violation of Section 475.25(1)(n), Florida Statutes; guilty of not having informed the Florida Real Estate Commission in writing within thirty (30) days after pleading guilty or nolo contendere to, or being convicted or found guilty of any felony in violation of Section 475.25(1)(p), Florida Statutes.

**Tab Q, R, S, T – Andrew B. Melville, BK 3035355 and 3137693, Case Nos. 2009023809 and 2009042504; and Realty Spread, Inc., CQ 1022981, Case Nos. 2009042510 and 2009023817–
Petitioner’s Request for an Informal Hearing**

Respondents were not present and not represented by counsel. Chair DeNapoli 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 Ruffier moved, seconded by Commissioner Boring; motion carried unanimously to find the Respondent guilty of all allegations contained in the Administrative Complaint. Commissioner Ruffier moved, seconded by Commissioner Boring to revoke Respondents the licenses and pay investigative costs; motion carried unanimously, but later in the meeting the revocation was vacated.

Action Taken: Motions vacated; see below.

Tab W – Josue Soto, BK 3160021, Case No. 20100018651 – Respondent’s Request for an Informal Hearing

Respondent was not present and represented by Jed Berman, Esquire, not present. Vice-Chair Guju was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission granted the informal hearing and entered into discussion. Commissioner Furst moved, seconded by Commissioner Ruffier; motion carried unanimously to find the Respondent guilty as

charged. Commissioner Ruffier moved, seconded by Commissioner Boring; motion carried unanimously to impose the following sanctions:

Penalty imposed: Reprimand, \$198.00 costs, 6 months probation, one 2-day FREC meeting.

Violation: Guilty of having been convicted of a crime in any jurisdiction which directly relates to the activities of a licensed broker or sales associate, or involves moral turpitude or fraudulent or dishonest dealing in violation of Section 475.25(1)(f), Florida Statutes.

Tab X – Angela Kinsey-Boza, SL 0655685, Case No. 2009005552 – Stipulated Settlement

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

Mr. Solla represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Ruffier moved; seconded by Commissioner Enzor to accept the Stipulation as amended. Motion carried unanimously.

Penalty imposed: \$1,000.00 fine, \$290.40 costs, 6 months probation, attend two 2-day FREC general meeting, 30 hours of education to include, in part, escrow management. **Violation:** Filed a report or record which the licensee knows to be false in violation of Section 475.25(1)(l), Florida Statutes.

Action taken: Stipulation accepted.

Tab Y – Manuel Oscar Rodriguez, BK 74766 and ZH 0035297, Case No. 2009005614 – Stipulated Settlement

Respondent was not present and represented by Robert Rodriguez, Esquire, not present. Vice-Chair Guju and Commissioner Boring were recused due to participation on the probable cause panel.

Mr. Solla represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Ruffier moved; seconded by Commissioner Enzor to accept the Stipulation. Motion carried unanimously.

Penalty imposed: \$1,000.00 fine, \$359.20 costs, 6 months probation, attend two 2-day FREC general meetings. **Violation:** Filed a report or record which the licensee knows to be false in violation of Section 475.25(1)(l), Florida Statutes.

Action taken: Stipulation accepted.

Tab Q, R, S, T – Andrew B. Melville, BK 3035355 and 3137693, Case Nos. 2009023809 and 2009042504; and Realty Spread, Inc., CQ 1022981, Case Nos. 2009042510 and 2009023817– Petitioner’s Request for an Informal Hearing

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

Mr. Cunningham requested to bring this matter back before the Commission to consider a request for continuance received from Respondent Melville as he has been subpoenaed to appear in Broward County Court tomorrow. Commissioner Ruffier moved to vacate the Final Order previously issued on these cases (see above), seconded by Commissioner Boring; motion carried 5 to 1.

Action taken: Final Order vacated.

The following cases were continued or withdrawn

Tab K – Joseph Anthony Gavagni
Tab O – Carmen (Gonzalez) Lahtela
Tab P – Anthony F. Lee
Tab Q, R, S, T – Andrew B. Melville and Realty Spread, Inc.
Tab V – David Marc Silver

Petition for Declaratory Statement

Petition for Declaratory Statement of Sections 475.01, 120.545 and 120.74, Florida Statutes and Rule 61J2-10.030, Florida Administrative Code received from Roslyn Chancey. Mr. Barnhart stated that the petition was not noticed in the Florida Administrative Weekly in time for this meeting and requested that the Commission continue this matter to the December 14, 2010, meeting. Commissioner McCoig moved; Commissioner Boring seconded to continue the petition until December 14, 2010. The motion carried unanimously.

Correspondence

Letter from Bob Moylan dated September 1, 2010 Regarding Broker License

Director O'Bryant presented the correspondence dated September 1, 2010, together with previous communications received from and sent to Mr. Moylan. Director O'Bryant also presented an email received from Mr. Moylan on September 16, 2010, requesting to continue this matter until the next FREC meeting or in the alternative provided an outline of his main concerns. Director O'Bryant provided a summary of the events leading up to Mr. Moylan's letter and provided copies of the communications between Mr. Moylan and the department. Director O'Bryant addressed each concern and stated that he did not believe these issues are within the statutory authority of the Commission.

The Commission entered into discussion. Chair DeNapoli commented that it appears that the division went through every effort to provide assistance to Mr. Moylan; the Commission agreed with the Chair's comment. Director O'Bryant asked if the Commission desired to address this issue today and reiterated that it is the division's opinion the Commission does not have the authority to address these issues. Mr. Barnhart agreed. Director O'Bryant respectfully requested the Commission ask Mr. Barnhart to provide a written response from the Commission addressing Mr. Moylan's email dated November 16, 2010. Chair DeNapoli provided guidance to Mr. Barnhart in drafting the appropriate written response to provide to Mr. Moylan.

Rules Workshop

61J2-3.013 – Distance Education Courses for Hardship Cases

Director O'Bryant presented this rule for the Commission's review and discussion of the proposed language draft of Rule 61J2-3.013, Florida Administrative Code. Mr. Barnhart provided suggestions he received from Lori Rogers for the Commission's consideration. The Commission entered into discussion. Commissioner Furst moved; seconded by Commissioner Boring; the motion carried unanimously to amend the rule change 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: (1) a licensee's long term illness or an illness involving a close relative or person for whom the licensee has care-giving responsibilities; (2) the required course is not reasonably available; and (3) 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. History—New 1-1-80, Amended 8-24-80, Formerly 21V-3.13, Amended 4-10-88, 10-13-88, 7-20-93, Formerly 21V-3.013, Amended 12-30-97, 9-17-00.

Statement of Estimated Regulatory Costs Regarding 61J2-3.013

Director O'Bryant presented the 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 Ruffier moved to accept the proposed determination of no impact on small businesses. Commissioner Enzor seconded the motion. The motion carried unanimously.

Ratification of Suspended Licenses

Director O'Bryant requested the Commission ratify reinstatement of the real estate licenses of Jay Pivnick and James A. Sharpe, Sr. who have met all requirements for reinstatement. The Commission ratified the actions unanimously.

Consent Agenda A

The Commission considered 54 applicants from the Consent Agenda A; Vice-Chair Guju moved; seconded by Commissioner Boring to approve 32 applicants and require 22 applicants to be placed on the Summary of Applicant Agenda; motion carried unanimously.

The following applicants were approved:

Aguirre, Horacio Stuart
Amador, Alexander
Blanco, Rolando
Borchardt, Joel

Dysard, Leland Frank
Fallon, Courtney
Fastiggi, Rita
Gray, Joshua

Moore, Patrick Michael
Olson, Robert A.
Padron, Omar
Rom, Davor

Bryan, James S.
Call, James W.
Chen, Michael John
Cooley, Michael Nicholas
Correll, Joseph John III
Dill, Richard M.
Dunne, Maureen Ellen

Hodes, Tana Marie
Karagiannis, Demetrios
Lerner, Oleg
Letscher, Lawrence Ormar
Lurer, Robert
Maschuck, Dennis
McNally, Patrick J.

Schindler, Todd Gregory
Shah, Mohammad Alam
Spearel, Christopher Bruce
Verde, Cramer
White, Christopher
Willis, Farrah Schanell

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

Andreasen, Omar Sahid
Carrozzella, John Christy II
Duran, Aglahed Lisandra
Escobar, Guillermo Ortelio
Fahnestock, James
Fedi Blomquist, Valerie Kim
Gabris, Joseph Anthony
Giovanelli, Luca

Gomez, Angelo L Jr.
Jones, Tina Marie
Kolar, Thomas Michael
Lowy, Stephan Philip
Mogerman, Steven Cody
Mokropoulo, Edouard
Palmer, Grant Willis

Pardi, Erick
Pazzaglia, Matthew
Richardson, Gary Okara
Spiers, Michael E.
Taplin, Jason
Tummina, Anthony Paul
Williams, Sandra Lee

Consent Agenda B

The Commission considered 19 applicants from the Consent Agenda B; Commissioner Boring moved; seconded by Commissioner Enzor to approve 11 applicants and require 8 applicants to be placed on the Summary of Applicant Agenda; motion carried unanimously.

The following applicants were approved:

Caviness, Antwyne A.
Evans, James
Gagne, Kevin Michael
Harp, Maura E.

Herard, Yves M.
Jones, Melissa Alice
Mickens, Robert T III
Moskos, George M.

Speyerer, William J III
Wheat, Stephanie
Wilson, Melissa R.

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

Baker, Pamela D.
Castanos, Carl James Jr.
Law, William Ford Jr.

Lovell, Linsey
Moore, Stephanie
Moss, Avis L.

Rebollo, Sergio Jr.
Saenz, Amanda

Public Comments

The Commissioners received comments from a member of the audience.

There being no further business and no objection, the Chair adjourned the meeting at approximately 3:00 p.m.

November 17, 2010

Chair Richard DeNapoli reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, on this 17th day of November, 2010.

Chair Richard DeNapoli, Vice-Chair Michael Guju; Claude "Chip" Boring, Darla Furst, Roger Enzor, Ralph McCoig 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; James Harwood, Chief Attorney; Brad Koshland, Bureau Chief of Investigation; Patrick Cunningham, Senior Attorney; Denise Johnson, OMC II; Jeannie Adkinson, Regulatory Specialist III; JoEllen Peacock, Education Coordinator; Lauren Roderick and Janice Taylor, Government Analyst I; Jocelyn Pomales, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant; American Court Reporting, Inc. (407) 896-1813, provided court reporter services.

Discussion Regarding British Petroleum Oil Spill Claims

Commissioner Enzor stated that this issue was discussed at the 2010 June FREC meeting and it was the general consensus of the Commission at that time was claims being paid by British Petroleum (BP) should be made payable to the brokerage as required by Section 475.42(1)(d), Florida Statutes. Commissioner Enzor stated that presently claims related to a contract or transaction are being paid to the broker and claims for loss of income are being paid directly to the sales associate and welcomed any questions or comments. Director O'Bryant stated that it is important that the division have guidance from the Commission on how to handle complaints that may be submitted against licensees. Director O'Bryant stated that a representative from Florida Realtors was here to weigh in on this issue. Commissioner Boring expressed his opinion relating to filing claims based on the loss of anticipated income. Ms. Rania Solomon, in-house counsel for Florida Realtors, provided a brief summary of the events leading to the Florida Realtors actions explaining that after the oil spill that occurred April 2010, Florida Realtors began receiving communications from its members that they are experiencing a loss of income due to lack of interest in the affected area. Florida Realtors began having discussions with BP Representative Kenneth Feinberg who set aside \$16,000,000.00 from BP's trust to compensate all Florida real estate licensees upon qualification. Florida Realtors then contracted with National Catastrophic Adjustors (NCA) to administer the funds and Florida Realtors set up specific guidelines in which the licensee must comply to receive monies from the fund. Ms. Solomon explained that Florida Realtors went to great efforts to distinguish between loss of income claims and loss of transaction claims and wanted to point out the language in Section 475.42 (1)(d), Florida Statutes specifically refers to transactions and that claims based on transactions, which is governed by Chapter 475.25(1)(d), Florida Statutes must be submitted by the broker or they will be denied. Ms. Solomon provided a copy of both claim forms. Ms. Solomon, further pointed out that there is a \$12,000 cap per individual claimant for all losses.

Director O'Bryant suggested the Commission discuss this in two parts, first the loss of a transaction and second the loss of income. Commissioner Ruffier stated that he is in agreement with the Florida Realtors' position on this issue. Commissioner Boring inquired what liability is placed on the broker should the sales associates file a false claim and would the department go after the broker. Ms. Solomon stated that NCA is very experienced and if there is any claim that appears to be improper on its face NCA will pull the claim and send it to Florida Realtors for further investigation. Commissioner Boring wanted assurance that the broker would not have any liability as a result of a loss of income claim. Ms. Solomon replied that in most cases the broker provides the documentation for the loss of income claims. Ms. Solomon stated that claims are restricted to losses within two specific 90-day periods and that the deadline for all submissions is November 23, 2010. Commissioner Guju also agreed that the Florida Realtors seem to be approaching this properly. Commissioner Enzor expressed that he is neither for nor against how this is being handled, however, feels the division may need some definition as how to handle complaints brokers may file who did not receive any funds. Ms. Solomon addressed additional questions from the Commission. Director O'Bryant stated that this has been quite

enlightening to the division and appreciates Florida Realtors' open communication with the division in dealing with this issue. The Commission thanked Ms. Solomon for coming before them to discuss this issue.

Summary of Applicants

Ms. Denise Johnson, OMC II, presented 58 Summary of Applicants requesting to sit for the real estate examination.

Tab F – Dalton, William S.; present – represented by Attorney Nancy Campiglia, present – Commissioner Enzor moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab I – Fagerness, Angela; present – represented by Attorney Nancy Campiglia, present – Commissioner McCoig moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab AH – Nuccio, John A., present – represented by Attorney Daniel Villazon, present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab AF – Miller, Frederick L.; present – Commissioner Furst moved; seconded by Vice-Chair Guju to approve the application for sales associate; motion carried unanimously.

Tab A – Arguello, Douglas M.; present – Application withdrawn and waived 90-day requirement.

Tab B – Bailey, Carrie L.; not present – Vice-Chair Guju moved; seconded by Commissioner Enzor to deny the application for sales associate; motion carried unanimously.

Tab C – Buskey, Christopher; not present – Commissioner McCoig moved; seconded by Vice-Chair Guju to deny the application for sales associate; motion carried unanimously.

Tab D – Cairns, Michelle J.; not present – Applicant requested a continuance and waived the 90-day requirement.

Tab E – Campos, Tiffany M.; present – Vice-Chair Guju moved; seconded by Commissioner Enzor to approve the application for sales associate; motion carried unanimously.

Tab G – Dieter, Marco A.; not present – Attorney for applicant requested a continuance, but was not present to waive the 90-day requirement. Vice-Chair Guju moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab H – Evangelista, Michael; present – Vice-Chair Guju moved; seconded by Commissioner Enzor to deny the application for sales associate; motion carried unanimously.

Tab J – Federic, James III; not present – Commissioner Ruffier moved; seconded by Vice-Chair Guju to approve the application for sales associate; motion carried unanimously.

Tab K – Feehan, Terri A.; present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab L – Gates, Gary L.; present – Commissioner McCoig moved; seconded by Vice-Chair Guju to approve the application for sales associate; motion carried unanimously.

Tab M – Gilligan, Jody T.; present – Vice-Chair Guju moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab N – Gomez, Raul, present – Commissioner McCoig moved; seconded by to Vice-Chair Guju approve the application for sales associate; motion carried unanimously.

Tab O – Goncalves, Tanya G., not present – Vice-Chair Guju moved; seconded by to Commissioner Boring deny the application for broker; motion carried unanimously.

Tab P – Gonzalez, Derek; present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab Q – Groover, Anthony M.; present – Commissioner Enzor moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab R – Hardt, Bradley R.; present – Commissioner Furst moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried 6 to 1.

Tab S – Harris, Marshall L. Jr.; present – Application withdrawn and waived 90-day requirement.

Tab T – Horka, Silvie; present – Vice-Chair Guju moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried 4 to 3.

Tab U – Jablkowski, Jennifer A.; not present – Commissioner Ruffier moved; seconded by to Commissioner Enzor deny the application for sales associate; motion carried unanimously.

Tab V – Lantrip, Lisa; present – Commissioner Furst moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab W – Laprade, David M.; not present – Commissioner Furst moved; seconded by to Commissioner Boring deny the application for sales associate; motion carried unanimously.

Tab X – Madsen, Jason I.; present – Commissioner McCoig moved; seconded by Vice-Chair Guju to approve the application for sales associate; motion carried unanimously.

Tab Y – Majeau, Alain; not present – Commissioner Furst moved; seconded by Commissioner Enzor to deny the application for sales associate; motion carried unanimously.

Tab Z – Mandel, Joshua M., not present – Commissioner Enzor moved; seconded by Commissioner Furst Boring to deny the application; motion failed 3 to 4. Vice-Chair Guju moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried 4 to 3.

Tab AA – Marr, David; present – Commissioner Boring moved; seconded by to Commissioner Furst approve the application for sales associate; motion carried unanimously.

Tab AB – Matranca, Marcelo A.; not present – Application withdrawn and waived 90-day requirement.

Tab AC – McAbee, Bridgette; not present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab AD – McConnell, Anthony J.; not present – Commissioner Furst moved; seconded by Commissioner McCoig to deny the application for broker; motion carried unanimously.

Tab AE – McLean, Patrick K.; present – Vice-Chair Guju moved; seconded by Commissioner Enzor to deny the application for sales associate; motion carried unanimously.

Tab AG – Murphy, Jacqueline; present – Commissioner Enzor moved; seconded by Vice-Chair Guju to approve the application for sales associate; motion carried unanimously.

Tab AI – Ogilvie, Sonny; present – Vice-Chair Guju moved; seconded by Commissioner Boring to approve the application for broker; motion carried 6 to 1.

Tab AJ – Packard, Tiffany M.; present – Commissioner Furst moved; seconded by Commissioner Enzor to approve the application for sales associate; motion carried unanimously.

Tab AK – Patel, Smita; not present – Commissioner Furst moved; seconded by Commissioner Enzor to deny the application for sales associate; motion carried 6 to 1.

Tab AL – Pemberton, James M.; present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab AM – Perez Cervera, Andres; present – Commissioner Ruffier moved; seconded by Commissioner Enzor to approve the application for sales associate; motion carried unanimously.

Tab AN – Pesh, Larry; present – Commissioner McCoig moved; seconded by Commissioner Furst to approve the application for broker; motion carried unanimously.

Tab AO – Ponce, Ricardo; not present – Commissioner Furst moved; seconded by Vice-Chair Guju to deny the application for sales associate; motion carried unanimously.

Tab AP – Redondo, Jessica A.; not present – Commissioner Ruffier moved; seconded by Commissioner Furst to deny the application for sales associate; motion carried unanimously.

Tab AQ – Richards, Raynard D.; not present – represented by Attorney Nancy Campiglia, not present; application withdrawn and waived 90-day requirement.

Tab AR – Rodrigues, Diana M.; not present – Applicant requested a continuance and waived 90-day requirement.

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

Tab AT – Sanchez, Veronica; present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab AU – Scida, Lance N.; not present – Commissioner Enzor moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried unanimously.

Tab AV – Sciuto, Brandon A.; not present – Vice-Chair Guju moved; seconded by Commissioner McCoig to deny the application for broker; motion carried unanimously.

Tab AW – Silver, David M.; not present – Applicant requested a continuance and waived 90-day requirement.

Tab AX – Taouzzale, Youssef; not present – Commissioner Ruffier moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab AY – Tatro, Michael J.; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab AZ – Taylor, Catrina; not present – Applicant requested a continuance to January and waived 90-day requirement.

Tab BA – Trauger, Carl R.; present – Commissioner Enzor moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab BB – Trotto, Jessica S.; not present – Vice-Chair Guju moved; seconded by Commissioner Boring to deny the application for sales associate; motion carried unanimously.

Tab BC – Valerio, Mark P.; present – Vice-Chair Guju moved; seconded by Commissioner Furst to approve the application for broker; motion carried 5 to 2.

Tab BD – Vickers, Kadijah J.; present – Commissioner Boring moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab BE – Westfield, Kurt; not present – Applicant requested a continuance and waived 90-day requirement.

Tab BF – Yunis, Jeffrey N.; not present – Commissioner Furst moved; seconded by Commissioner Enzor to deny the application for sales associate; motion carried unanimously.

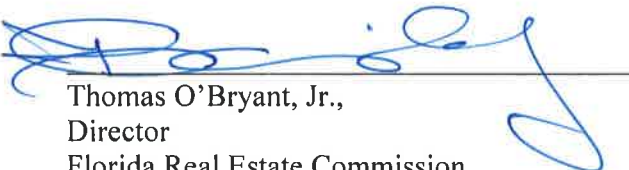
Chair's Comments

Chair DeNapoli stated that he has enjoyed chairing his first meeting.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 1:30 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for December 14 and 15, 2010, in Orlando, Florida.


Richard DeNapoli, Chair
Florida Real Estate Commission


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