

**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
FLORIDA REAL ESTATE COMMISSION**

**IN RE:        PETITION FOR DECLARATORY  
                  STATEMENT BY ROBERT SHAW, P.A.**

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**FINAL ORDER GRANTING PETITION FOR  
DECLARATORY STATEMENT**

**DS 2021-042**

Robert Shaw, PA, (“Shaw” or “Petitioner”) filed a Petition for Declaratory Statement (“Petition”), assigned number DS 2021-042, on August 2, 2021. Notice of receipt of the Petition was published in the Florida Administrative Register on August 11, 2021, Vol. 47, No. 155. The Commission considered the Petition, attached hereto and incorporated fully herein as Attachment A, at its meeting in Orlando, Florida on September 22, 2021.

By his Petition, Shaw seeks the Commission’s determination that a proposed “Choose Your Charity” program, as detailed in the Petition, would not violate section 475.25(1)(h), F.S.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1.        Robert Shaw, PA, holder of Sales License No. SL 3305644, is a Florida Real Estate Licensee, and is therefore subject to the provisions of Chapters 455 and 475, F.S., and the rules adopted thereto.

2.        Paragraph 475.25(1)(h), F.S. states:

475.25 Discipline.—

(1) The commission may deny an application for licensure, registration, or permit, or renewal thereof; may place a licensee, registrant, or permittee on probation; may suspend a license, registration, or permit for a period not exceeding 10 years; may revoke a license, registration, or permit; may impose an administrative fine not to exceed \$5,000 for each count or separate offense; and may issue a reprimand, and any or all of the foregoing, if it finds that the licensee, registrant, permittee, or applicant:  
\* \* \* \*

(h) Has shared a commission with, or paid a fee or other compensation to, a person not properly licensed as a broker, broker associate, or sales associate under the laws of this state, for the referral of real estate business, clients, prospects, or customers, or for

any one or more of the services set forth in s. 475.01(1)(a). For the purposes of this section, it is immaterial that the person to whom such payment or compensation is given made the referral or performed the service from within this state or elsewhere; however, a licensed broker of this state may pay a referral fee or share a real estate brokerage commission with a broker licensed or registered under the laws of a foreign state so long as the foreign broker does not violate any law of this state.

3. Petitioner asserts that he desires to implement a “Choose Your Charity” donation program, whereby his clients could designate any section 501(c)(3) not-for-profit entity to receive the equivalent of ten percent (10%) of the net commission (the “Donation”) at closing.

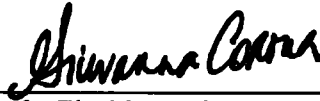
4. Petitioner specifically asserts that the disbursement would be made by the closing agent directly to the designated entity, in the client’s name, with the amount being debited against the commission earned by Shaw and separately disbursed to him. Petitioner asserts that in no way will he have “paid” for any type of referral, it would be a donation” taken directly from the portion of the commission Petitioner is entitled to receive and donated to the designated not-for-profit in the client’s name.

5. If implemented and operated as specifically described in the Petition and in the paragraphs above, the Commission finds that that Petitioner’s “Choose Your Charity” donation program would NOT be violative of paragraph 475.25(1)(h), F.S. Petitioner is required to provide the closing agent with written instructions authorizing the closing agent to deduct the Donation from the net commission and to disburse the same to the designated charity in the Client’s Name.

6. The Commission is authorized to issue this Declaratory Statement by Section 120.565, Florida Statutes. No person requested Intervention in this cause.

7. Accordingly, the Commission GRANTS the Petition and STATES that that the “Choose Your Charity” program, if implemented and operated as described, would not constitute a violation of paragraph 475.25(1)(h), F.S.

**DONE AND ORDERED** this 12 day of October, 2021.



For the Florida Real Estate Commission  
By Giovanna Corona  
Executive Director

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES OR WITH THE COURT OF APPEAL, FIRST DISTRICT. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **Robert Shaw, P.A.** 198 Golfview Drive, Tequesta FL 33469; interoffice mail to **Division of Real Estate**, 400 W. Robinson Street, Suite N 801, Orlando, Florida 32801-1757; and by Electronic Mail to Lawrence Harris, Senior Assistant Attorney General, [Lawrence.Harris@myfloridalegal.com](mailto:Lawrence.Harris@myfloridalegal.com) and [Cassandra.Fullove@myfloridalegal.com](mailto:Cassandra.Fullove@myfloridalegal.com) all on this 14<sup>th</sup> day of December, 2021.



Deputy Agency Clerk

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|--|-----------------|
| <b>FILED</b>                                       |                 |
| Department of Business and Professional Regulation |                 |
| Senior Deputy Agency Clerk                         |                 |
| CLERK  | Brandon Nichols |
| Date   | 8/2/2021        |
| File #   |                 |

**PETITION FOR DECLARATORY STATEMENT BEFORE THE DEPARTMENT OF  
BUSINESS AND PROFESSIONAL REGULATION:  
THE FLORIDA REAL ESTATE COMMISSION**

**Petitioner:** Robert Shaw, PA License #SL3305644  
198 Golfview Dr., Tequesta, FL 33469  
[Shawboh20@gmail.com](mailto:Shawboh20@gmail.com)  
(561) 440-4024

**Date:** July 28, 2021

**DS 2021-042**

**Statutory Provision:** Florida Statutes Section 475.25 Discipline.

(1) The commission may deny an application for licensure, registration, or permit, or renewal thereof; may place a licensee, registrant, or permittee on probation; may suspend a license, registration, or permit for a period not exceeding 10 years; may revoke a license, registration, or permit; may impose an administrative fine not to exceed \$5,000 for each count or separate offense; and may issue a reprimand, and any or all of the foregoing, if it finds that the licensee, registrant, permittee, or applicant

(h) Has shared a commission with, or paid a fee or other compensation to, a person not properly licensed as a broker, broker associate, or sales associate under the laws of this state, for the referral of real estate business, clients, prospects, or customers, or for any one or more of the services set forth in s. 475.01(1)(a). For the purposes of this section, it is immaterial that the person to whom such payment or compensation is given made the referral or performed the service from within this state or elsewhere; however, a licensed broker of this state may pay a referral fee or share a real estate brokerage commission with a broker licensed or registered under the laws of a foreign state so long as the foreign broker does not violate any law of this state.

My reason for requesting a declaratory statement on 475.21 (1) (h) is that I am looking for clarification on whether or not a Charity Donation program to buyer and seller clients violates the statute. I understand the intention of paragraph (h) cited above is to preclude any type of payment for referral business. It is neither my intention, nor will it be my practice to submit a donation to anyone or charity to repay (or elicit) a referral. My "Choose Your Charity" program concept would allow clients to choose any 501 (c) (3) non-profit to receive the equivalent of 10% of my net commission at closing.

My impetus for implementing this program is that I've reached the point in my life and career where I want to give back to organizations that make a difference in people's lives. I began my research on the idea by investigating if other real estate sales associates in Florida offer similar programs. The search revealed that I certainly would not be re-inventing the wheel. While the percentage of commission varied, most programs were similar. A common approach was to reduce the sales associate's commission (by whatever their program offers) and have the closing agent cut a check equivalent to the commission reduction made out to the charity but in the sales associates' client's name.

After noting that sales associate donation programs existed around the state, I contacted two real estate attorney's to get their interpretation of the statute and these programs. Both

related to me that they thought my program as described would not be in violation of 475.21 (1) (h). After conferring with other real estate professionals that I thought might add additional perspectives, I reached out to Richard Freyer on your commission. My hope was to get input from FREC's point of view. With his response being to seek a Declaratory Statement, I respectfully submit this letter and a "Choose Your Charity" program as described for your review.

In summary, I greatly appreciate a declaratory statement on the following; Whether or not 475.21 (1) (h) is violated under a "Choose Your Charity" donation program as described, where clients have complete control over where donations are made and there is no referral relationship with the donation recipient.

Regards,



*Robert Shaw, P A.*

*Paradise Real Estate International*

*Cell/Text (561) 440-4024*

*Recipient of International Ambassadors Sales Award for*

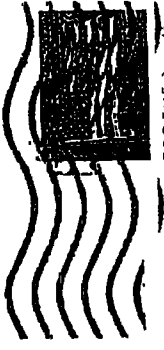
*Achievement and Excellence - 2017, 2018, 2019 & 2020*

*Vice-Chair - Tequesta Environmental Advisory Committee*

*Director - Jupiter Inlet Foundation Board*

R. Shaw, P.A.  
198 Golfview Dr.  
Tarvesta, FL 32469

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Dept. of Business and Professional Regulation  
Division of Real Estate  
400 W. Robinson St. N801  
Orlando, FL 32801

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