

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

In RE:           Petition for Declaratory Statement by  
                    JWB Property Management, LLC.

**DS 2024-007**

**FINAL ORDER GRANTING PETITION FOR DECLARATORY STATEMENT**

Petitioner Zach W. Miller, Esq., on behalf of JWB Property Management, LLC, filed a Petition for Declaratory Statement (“Petition”) on February 15, 2024, and the Petition was assigned number DS 2024-007. Notice of the receipt of the Petition was published in the Florida Administrative Register on February 23, 2024, in Vol. 50, No. 38. A copy of the Petition is attached hereto and incorporated herein. No Petitions for Intervention or other comments were received. The Commission considered the Petition at its meeting in Orlando, Florida on March 20, 2024. Neither Petitioner nor Petitioner’s legal counsel were present at the meeting. Upon review of the Petition and being otherwise fully advised in the premises thereof, the Commission finds and concludes as follows.

1. The facts considered by the Commission are as alleged in the Petition and transmittal letter, copies of which are attached hereto as Attachment A and which are incorporated by reference herein. The Commission has no other information and conducted no investigation regarding the facts and circumstances other than as stated in the Petition.

2. The Commission has authority to issue this Order pursuant to Section 120.565, Florida Statutes, and Chapter 28-105, Florida Administrative Code.

3. No person or entity filed a Petition for Intervention or otherwise commented on the Petition.

4. By its petition, Petitioner seeks the Commission's opinion as to whether a proposed plan, to make a donation to the charity of choice of a current tenant of Petitioner's rental properties, in the name of the tenant, in exchange for positive referrals from that tenant, is permitted under Section 475.01(1)(a), Florida Statutes.

5. The Commission finds that Petitioner has provided sufficient details regarding the particulars of the proposed plan such that the Commission can make a determination and issue a Statement. Accordingly, the Petition should be Granted.

6. Section 475.01(1), F.S., establishes a "Broker" as a person who undertakes any of the activities detailed in that paragraph. Section 475.01(3), F.S., expands upon the definition and details the acts involved in "operating as a broker."

7. Section 475.42(1)(a), F.S., makes it a Felony of the third degree for a person to operate as a broker without being licensed as such in Florida.

8. Upon review, the Petitioner's proposed plan to make charitable donations in a current tenant's name in return for that tenant procuring new lessees, on its face appears to fall squarely within the list of activities enumerated in section 475.01(1)(a), and for which licensure is required.

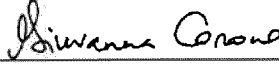
9. Accordingly, the Commission finds that Petitioner's proposed plan, if undertaken, would constitute brokerage activity which would require licensure in the State of Florida in order to avoid disciplinary and/or criminal violations of Florida Law. It is, therefore,

ORDERED that the Commission GRANTS the Petition for Declaratory Statement filed on behalf of JWB Property Management, LLC, and ISSUES THE STATEMENT that implementation of the charitable donation plan detailed in the Petition would involve activities covered by section 471.01(1)(a), F.S., and therefore, would require Florida licensure to avoid potential discipline or

criminal activity in Florida.

This Final Order shall become effective on the date filed with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 23<sup>rd</sup> day of May, 2024.


  
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*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. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

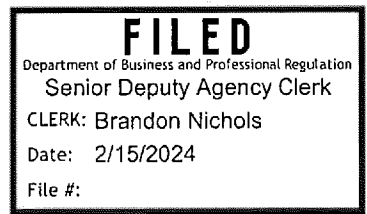
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail To: **Zach Miller, Esq.**, 3203 Old Barn Court, Ponte Vedra Beach, FL 32082; and by Email 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) on this 4<sup>th</sup> day of ~~May~~ <sup>June</sup>, 2024. 



Deputy Agency Clerk



## REQUEST FOR DECLARATORY STATEMENT

### NAME AND ADDRESS OF PETITIONERS:

- JWB PROPERTY MANAGEMENT, LLC.  
7563 PHILIPS HWY  
BLDG 100  
JACKSONVILLE, FL 32256

c/o

# DS 2024-007

Zach Miller, Esq.  
3203 Old Barn Court  
Ponte Vedra Beach, Florida 32082  
zwmillerlaw@gmail.com

(Counsel for Petitioner)

### SPECIFIC PROVISION ON WHICH PETITIONERS SEEK A DECLARATORY STATEMENT:

- Section 475.01(1)(a), Florida Statutes.

**A SHORT, DETAILED, AND TO THE POINT STATEMENT OF ALL RELEVANT FACTS IN NUMBERED PARAGRAPHS, AND A REQUEST FOR THE DIVISION'S OFFICIAL OPINION OF HOW THE SPECIFIED STATUTE RULE OR ORDER APPLIES TO THE PETITIONERS IN THEIR PARTICULAR SET OF CIRCUMSTANCES. BROAD REQUESTS FOR INTERPRETATIONS OF LAWS, RULES OR ORDERS WHICH APPLY TO ALL CONDOMINIUMS GENERALLY AND WHICH ARE NOT RESTRICTED IN SCOPE TO THE PETITIONER'S CIRCUMSTANCES WILL NOT BE ACCEPTED BY THE DIVISION.**

Petitioner is a landlord and property manager for single-family and multi-family rental homes in the Jacksonville-area market.

Petitioner would like to provide donations (up to \$100) to the charity of tenant's choice in exchange for positive referrals.

Petitioner seeks clarification as to whether said donations would make the tenants a "broker" pursuant to Section 475.01(1)(a), Florida Statutes and specifically whether said donations would be considered "compensation or valuable consideration" pursuant to the same statutory section. Petitioner seeks this clarification as to tenants for multi-family units and single-family units.

**A STATEMENT AS TO WHETHER THE PETITIONER (OR INTERVENER) REQUESTS A HEARING. THE DIVISION MAY, IN ITS DISCRETION, HOLD A HEARING TO DISPOSE OF THE PETITION.**

Petitioners do not request a hearing.

**Zach W. Miller**  
ATTORNEY AT LAW

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3203 Old Barn Court  
Ponte Vedra Beach, Florida  
(904) 651-8958

February 12, 2024

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

**Re: Request for Declaratory Statement**

To Whom it May Concern,

I represent JWB Property Management, LLC. My client operates as a landlord in the Jacksonville-area market and is inquiring as to the applicability of the prohibition on referral fees for tenants as to charitable donations. Specifically, whether the definition of "broker", the use of the phrase, "receive a compensation or valuable consideration therefor" in Section 475.01(1)(a), Florida Statutes or any other statutory or administrative provision prohibits a landlord or property management company from donating to a tenant's charity of choice after receiving a referral.

Enclosed please find the request for declaratory statement pursuant to Section 120.565, Florida Statutes and Section 28.105, Florida Administrative Code.

Please let me know if you have any questions or require any further information.

Sincerely,

*Zach Miller*

Zach Miller, Esq.

JWB Property Management LLC  
7563 PHILIPS HWY STE 208  
JACKSONVILLE FL 32256-6834

**USPS CERTIFIED MAIL**



9407 1118 9876 5409 2596 58

DBPR  
Division of Real Estate  
400 W ROBINSON ST STE N801  
ORLANDO FL 32801-1757



\$5.04 US POSTAGE  
FIRST-CLASS  
Feb 13 2024  
Mailed from ZIP 32256  
1 OZ FIRST-CLASS MAIL LETTER  
RATE  
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DIVISION OF REAL ESTATE

FEB 15 2024

COMPLIANCE  
RECEIVED BY *JM*