

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

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
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File #	

August 31, 2016

DS 2016-069

In re:

Petition for Declaratory Statement
by RedWeek Real Estate LLC for
RedWeek Real Estate

RE: Extraterritorial
Application of §475.25(1)(h),
Florida Statutes

**PETITION FOR DECLARATORY STATEMENT BEFORE THE FLORIDA REAL
ESTATE COMMISSION**

RedWeek Real Estate LLC ("Petitioner") hereby petitions the Florida Real Estate Commission (the "Commission") to issue a formal written position determining the scope and meaning of the above-referenced section of Chapter 475, *Florida Statutes*, as it applies to Petitioner's proposed conduct, and hereby files this Petition for Declaratory Statement, as permitted by s. 120.565, *Florida Statutes*, and Chapter 28-105, *Florida Administrative Code*.

I. NAME AND ADDRESS OF PETITIONER

The Petitioner's name and address is RedWeek Real Estate LLC, 13506 Summerport Village Parkway, #712, Windermere, Florida 34786, Attn: Gary Prado. Gary Prado is the representative of RedWeek and can be reached at 407-279-1143 or gary@redweek.com.

II. SPECIFIC PROVISION TO BE CONSIDERED

The specific provision to be considered in this Petition for Declaratory Statement is §475.25(1)(h), *Florida Statutes*.

III. REASON FOR THE DECLARATORY STATEMENT

RedWeek intends to enter into an arrangement with a company located and operating in Thailand ("Thai Broker") that specializes in the sale of timeshares to customers located in the Pacific Rim region. Under this arrangement, RedWeek will assist in reselling timeshare units that are owned by the Thai Broker's customers and that are located in the United States. RedWeek intends to split any resulting commissions with the Thai Broker and seeks an opinion from the Commission as to whether splitting these commissions with the Thai Broker violates the provisions of Section 475.25(1)(h), *Florida Statutes*, regarding the sharing of commissions with foreign brokers.

IV. RELEVANT FACTS

RedWeek is in the business of reselling timeshare units on behalf of individual consumers. The Thai Broker sells timeshares primarily to American expatriates living in the Pacific Rim region. Some Thai Broker customers have asked the Thai Broker to sell their respective timeshare units that are located in the United States. However, the Thai Broker's website does not have US-based web traffic, and therefore the likelihood of successful sales by the Thai Broker is low. In addition, the Thai Broker is not licensed as a real estate broker in the United States. Thus, the Thai Broker has approached RedWeek about assisting in selling those customers' timeshares through RedWeek's platform. Upon closing, RedWeek proposes to split the commissions with the Thai Broker.

The Statute that is subject of this Petition is Section 475.25(1)(h), *Florida Statutes*. This section states that the Florida Real Estate Commission may discipline a real estate broker who:

(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.* (emphasis supplied).

Thus, Section 475.25(1)(h), *Florida Statutes* permits splitting of commissions with brokers or agents located in foreign states under appropriate circumstances. However, the statute is unclear as to whether one may split commissions with a broker or agent located in a foreign nation. Petitioner seeks clarity on whether it is legal in Florida for Petitioner to share a sales commission resulting from timeshare real estate sales co-brokered with a company located in Thailand. While Thailand does not require real estate brokers or agents to have a real estate license, Thai companies must be licensed to do business in order to participate in timeshare re-sales.

V. ISSUE TO BE RESOLVED

As applied to Petitioner's particular set of circumstances presented in Article IV of this Petition for Declaratory Statement, Petitioner hereby requests an opinion from the Commission confirming that it may share a real estate brokerage commission resulting from the sale of a timeshare with a company located and properly licensed to do business in Thailand. Specifically, the question may be presented as follows:

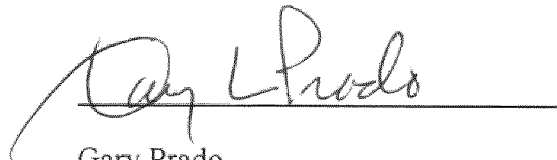
May a Florida-licensed real estate broker legally pay a referral fee or split a commission with an agent/broker who is legally selling under the laws of the jurisdiction where such

agent/broker is located (here, Thailand), where such jurisdiction does not license real estate brokers/agents but does require a general business license to sell timeshares?

VI. NO REQUEST FOR HEARING.

The Petitioner requests a declaratory statement at this time and does not formally request a hearing at this time; however, Petitioner understands that the Commission may, in its discretion, hold a hearing to dispose of the Petition.

Respectfully submitted this 31st day of August, 2016 by:

A handwritten signature in black ink, appearing to read "Gary L Prado", is written over a solid horizontal line.

Gary Prado
RedWeek Real Estate LLC
13506 Summerport Village Parkway, #712
Windermere, Florida 34786