

**61J2-24.001 Disciplinary Guidelines.**

(1) Pursuant to Section 455.2273, F.S., the Commission sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon licensees guilty of violating Chapter 455 or 475, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which normally will be imposed for each count during a formal or an informal hearing. For purposes of this rule, the order of penalties, ranging from lowest to highest, is: reprimand, fine, probation, suspension, and revocation or denial. Pursuant to Section 475.25(1), F.S., combinations of these penalties are permissible by law. Nothing in this rule shall preclude any discipline imposed upon a licensee pursuant to a stipulation or settlement agreement, nor shall the range of penalties set forth in this rule preclude the Probable Cause Panel from issuing a letter of guidance.

(2) As provided in Section 475.25(1), F.S., the Commission may, in addition to other disciplinary penalties, place a licensee on probation. The placement of the licensee on probation shall be for such a period of time and subject to such conditions as the Commission may specify. Standard probationary conditions may include, but are not limited to, requiring the licensee: to attend pre-licensure courses; to satisfactorily complete a pre-licensure course; to attend post-licensure courses; to satisfactorily complete a post-licensure course; to attend continuing education courses; to submit to and successfully complete the state-administered examination; to be subject to periodic inspections and interviews by a DBPR investigator; if a broker, to place the license on a broker associate status; or, if a broker, to file escrow account status reports with the Commission or with a DBPR investigator at such intervals as may be prescribed.

(3) The penalties are as listed unless aggravating or mitigating circumstances apply pursuant to subsection (4). The verbal identification of offenses is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

	PENALTY RANGE	
VIOLATION	FIRST VIOLATION	SECOND AND SUBSEQUENT VIOLATIONS
(a) Section 475.22, F.S. Broker fails to maintain office or sign at entrance of office	(a) Reprimand to \$500 administrative fine	(a) 90-day suspension and \$1,000 administrative fine
(b) Section 475.24, F.S. Failure to register a branch office	(b) Reprimand to \$500 administrative fine	(b) 90-day suspension and \$1,000 administrative fine
(c) Section 475.25(1)(b), F.S. Fraud, misrepresentation, and dishonest dealing	(c) \$1,000 to \$2,500 administrative fine and 30-day suspension to revocation	(c) \$2,500 to \$5,000 administrative fine and 6 month suspension to revocation
Concealment, false promises, false pretenses by trick, scheme or device	\$1,000 to \$2,500 administrative fine and 30-day suspension to revocation	\$2,500 to \$5,000 administrative fine and 6 month suspension to revocation
Culpable negligence or breach of trust	\$1,000 to \$2,500 administrative fine and 30-day suspension to revocation	\$2,500 to \$5,000 administrative fine and 6 month suspension to revocation
Violating a duty imposed by law or by the terms of a listing agreement; aided, assisted or conspired with another; or formed an intent, design or scheme to engage in such misconduct and committed an overt act in furtherance of such intent, design or scheme	\$1,000 to \$2,500 administrative fine and 30-day suspension to revocation	\$2,500 to \$5,000 administrative fine and 6 month suspension to revocation
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(d) Section 475.25(1)(c), F.S. False, deceptive or misleading advertising	(d) \$250 to \$1,000 administrative fine and 30 to 90 day suspension	(d) \$1,000 to \$5,000 administrative fine and 90 day suspension to revocation
(e) Section 475.25(1)(d), F.S. Failed to account or deliver to any person as required by agreement or law, escrowed property	(e) \$250 to \$1,000 administrative fine and suspension to revocation	(e) \$1,000 to \$5,000 administrative fine and suspension to revocation
(f) Section 475.25(1)(e), F.S. Violated any rule or order or provision under Chapters 475 and 455, F.S.	(f) \$250 to \$1,000 administrative fine and suspension to revocation	(f) \$1,000 to \$5,000 administrative fine and suspension to revocation
(g) Section 475.25(1)(f), F.S. Convicted or found guilty of a crime related to real estate or involving moral turpitude or fraudulent or dishonest dealing	(g) \$250 to \$1,000 administrative fine and 30-day suspension to revocation	(g) \$1,000 to \$5,000 administrative fine and suspension to revocation
(h) Section 475.25(1)(g), F.S. Has license disciplined or acted against or an application denied by another jurisdiction	(h) \$250 to \$1,000 administrative fine and 30-day suspension to revocation	(h) \$1,000 to \$5,000 administrative fine and suspension to revocation
(i) Section 475.25(1)(h), F.S. Has shared a commission with or paid a fee to a person not properly licensed under Chapter 475, F.S.	(i) \$250 to \$1,000 administrative fine and 30 day suspension to revocation	(i) \$1,000 to \$5,000 administrative fine and suspension to revocation
(j) Section 475.25(1)(i), F.S. Impairment by drunkenness, or use of drugs or temporary mental derangement	(j) Suspension for the period of incapacity	(j) Suspension for the period of incapacity
(k) Section 475.25(1)(j), F.S. Rendered an opinion that the title to property sold is good or merchantable when not based on opinion of a licensed attorney or has failed to advise prospective buyer to consult an attorney on the merchantability of title or to obtain title insurance	(k) \$250 to \$1,000 administrative fine and 30 day suspension to revocation	(k) \$1,000 to \$5,000 administrative fine and suspension to revocation
(l) Section 475.25(1)(k), F.S. Has failed, if a broker, to deposit any money in an escrow account immediately upon receipt until disbursement is properly authorized. Has failed, if a sales associate, to place any money to be escrowed with his registered employer	(l) \$250 to \$1,000 administrative fine and 30-day suspension to revocation	(l) \$1,000 to \$5,000 administrative fine and suspension to revocation

(m) Section 475.25(1)(l), F.S. Has made or filed a report or record which the licensee knows to be false or willfully failed to file a report or record or willfully impeded such filing as required by State or Federal Law	(m) \$250 to \$1,000 administrative fine and 30 day suspension to revocation	(m) \$1,000 to \$5,000 administrative fine and suspension to revocation
(n) Section 475.25(1)(m), F.S. Obtained a license by fraud, misrepresentation or concealment	(n) \$250 to \$1,000 administrative fine and 30-day suspension to revocation	(n) \$1,000 to \$5,000 administrative fine and suspension to revocation
(o) Section 475.25(1)(n), F.S. Confined in jail, prison or mental institution; or through mental disease can no longer practice with skill and safety	(o) \$250 to \$1,000 administrative fine and suspension to revocation	(o) \$1,000 to \$5,000 administrative fine and suspension to revocation
(p) Section 475.25(1)(o), F.S. Guilty for the second time of misconduct in the practice of real estate that demonstrates incompetent, dishonest or negligent dealings with investors	(p) \$1,000 to \$5,000 administrative fine and a 1 year suspension to revocation	
(q) Section 475.25(1)(p), F.S. Failed to give Commission 30 day written notice after a guilty or nolo contendere plea or convicted of any felony	(q) \$500 to \$1,000 administrative fine and suspension to revocation	(q) \$1,000 to \$5,000 administrative fine and suspension to revocation
(r) Section 475.25(1)(r), F.S. Failed to follow the requirements of a written listing agreement	(r) \$250 to \$1,000 administrative fine and suspension to revocation	(r) \$1,000 to \$5,000 administrative fine and suspension to revocation
(s) Section 475.25(1)(s), F.S. Has had a registration suspended, revoked or otherwise acted against in any jurisdiction	(s) \$250 to \$1,000 administrative fine and 60-day suspension to revocation	(s) \$1,000 to \$5,000 administrative fine and suspension to revocation
(t) Section 475.25(1)(t), F.S. Violated the Uniform Standards of Professional Appraisal Practice as defined in Section 475.611, F.S.	(t) \$250 to \$1,000 administrative fine and 30-day suspension to revocation	(t) \$1,000 to \$5,000 administrative fine and suspension to revocation
(u) Section 475.25(1)(u), F.S. Has failed, if a broker, to direct, control, or manage a broker associate or sales associate employed by such broker	(u) \$250 to \$1,000 administrative fine and suspension to revocation	(u) \$1,000 to \$5,000 administrative fine and suspension to revocation

(v) Section 475.25(1)(v), F.S. Has failed, if a broker, to review the brokerage's trust accounting procedures in order to ensure compliance with this chapter	(v) \$250 to \$2,500 administrative fine and suspension to revocation	(v) \$1,000 to \$5,000 administrative fine and suspension to revocation
(w) Section 475.42(1)(a), F.S. Practice without a valid and current license	(w) \$250 to \$2,500 administrative fine and suspension to revocation	(w) \$1,000 to \$5,000 administrative fine and suspension to revocation
(x) Section 475.42(1)(b), F.S. Practicing beyond scope as a sales associate	(x) \$250 to \$1,000 administrative fine and suspension to revocation	(x) \$1,000 to \$5,000 administrative fine and suspension to revocation
(y) Section 475.42(1)(c), F.S. Broker employs a sales associate who is not the holder of a valid and current license	(y) \$250 to \$1,000 administrative fine and suspension to revocation	(y) \$1,000 to \$5,000 administrative fine and suspension to revocation
(z) Section 475.42(1)(d), F.S. A sales associate shall not collect any money in connection with any real estate brokerage transaction except in the name of the employer	(z) \$250 to \$1,000 administrative fine and suspension to revocation	(z) \$1,000 to \$5,000 administrative fine and suspension to revocation
(aa) Section 475.42(1)(f), F.S. Makes false affidavit or affirmation or false testimony before the Commission	(aa) \$250 to \$1,000 administrative fine and suspension to revocation	(aa) \$1,000 to \$5,000 administrative fine and suspension to revocation
(bb) Section 475.42(1)(g), F.S. Fails to comply with subpoena	(bb) \$250 to \$1,000 administrative fine and suspension	(bb) \$1,000 to \$5,000 administrative fine and suspension to revocation
(cc) Section 475.42(1)(h), F.S. Obstructs or hinders the enforcement of Chapter 475, F.S.	(cc) \$250 to \$1,000 administrative fine and suspension to revocation	(cc) \$1,000 to \$5,000 administrative fine and suspension to revocation
(dd) Section 475.42(1)(i), F.S. No broker or sales associate shall place upon the public records any false, void or unauthorized information that affects the title or encumbers any real property	(dd) \$250 to \$2,500 administrative fine and suspension to revocation	(dd) \$1,000 to \$5,000 administrative fine and suspension to revocation
(ee) Section 475.42(1)(j), F.S. Failed to register trade name with the Commission	(ee) \$250 to \$1,000 administrative fine	(ee) \$1,000 to \$5,000 administrative fine and suspension to revocation
(ff) Section 475.42(1)(k), F.S.	(ff) \$250 to \$1,000 administrative fine	(ff) \$1,000 to \$5,000 administrative fine

No person shall knowingly conceal information relating to violations of Chapter 475, F.S.	and suspension	and suspension to revocation
(gg) Section 475.42(1)(l), F.S. Fails to have a current license as a broker or sales associate while listing or selling one or more timeshare periods per year	(gg) \$250 to \$1,000 administrative fine and suspension	(gg) \$1,000 to \$5,000 administrative fine and suspension to revocation
(hh) Section 475.42(1)(m), F.S. Licensee fails to disclose all material aspects of the resale of timeshare period or timeshare plan and the rights and obligations of both buyer or seller	(hh) \$250 to \$1,000 administrative fine and suspension	(hh) \$1,000 to \$5,000 administrative fine and suspension to revocation
(ii) Section 475.42(1)(n), F.S. Publication of false or misleading information; promotion of sales, leases and rentals	(ii) \$250 to \$1,000 administrative fine and suspension to revocation	(ii) \$1,000 to \$5,000 administrative fine and suspension to revocation
(jj) Section 475.451, F.S. School teaching real estate practice fails to obtain a permit from the department and does not abide by regulations of Chapter 475, F.S., and rules adopted by the Commission	(jj) \$250 to \$1,000 administrative fine and suspension	(jj) \$1,000 to \$5,000 administrative fine and suspension to revocation
(kk) Section 475.453, F.S. Broker or sales associate participates in any rental information transaction that fails to follow the guidelines adopted by the Commission and Chapter 475, F.S.	(kk) \$250 to \$1,000 administrative fine and suspension	(kk) \$1,000 to \$5,000 administrative fine and 90-day suspension to revocation
(ll) Section 475.5015, F.S. Failure to keep and make available to the department such books, accounts, and records as will enable the department to determine whether the broker is in compliance with the provisions of Chapter 475, F.S.	(ll) \$250 to \$1,000 administrative fine and suspension to revocation	(ll) \$1,000 to \$5,000 administrative fine and 90-day suspension to revocation
(mm) Section 455.227(1)(s), F.S. Failing to comply with the educational course requirements for domestic violence	(mm) \$250 to \$1,000 administrative fine and suspension to revocation	(mm) \$1,000 to \$5,000 administrative fine and suspension to revocation

(nn) Section 455.227(1)(t), F.S. Failing to report in writing to the Commission within 30 days after the licensee is convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction.	(nn) \$250 to \$1,000 administrative fine and suspension to revocation	(nn) \$1,000 to \$5,000 administrative fine and suspension to revocation
(oo) Section 455.227(1)(u), F.S. Termination from a treatment program for impaired practitioners as described in Section 456.076 for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee or failing to successfully complete a drug or alcohol treatment program	(oo) \$250 to \$1,000 administrative fine and suspension to revocation	(oo) \$1,000 to \$5,000 administrative fine and suspension to revocation

(4)(a) When either the Petitioner or Respondent is able to demonstrate aggravating or mitigating circumstances to the Commission in a Section 120.57(2), F.S., hearing or to a Division of Administrative Hearings hearing officer in a Section 120.57(1), F.S., hearing by clear and convincing evidence, the Commission or hearing officer shall be entitled to deviate from the above guidelines in imposing or recommending discipline, respectively, upon a licensee.

Whenever the Petitioner or Respondent intends to introduce such evidence to the Commission in a Section 120.57(2), F.S., hearing, advance notice of no less than seven (7) days shall be given to the other party or else the evidence can be properly excluded by the Commission.

(b) Aggravating or mitigating circumstances may include, but are not limited to, the following:

1. The degree of harm to the consumer or public.
2. The number of counts in the Administrative Complaint.
3. The disciplinary history of the licensee.
4. The status of the licensee at the time the offense was committed.
5. The degree of financial hardship incurred by a licensee as a result of the imposition of a fine or suspension of the license.
6. Violation of the provision of Chapter 475, F.S., wherein a letter of guidance as provided in Section 455.225(4), F.S., previously has been issued to the licensee.

*Rulemaking Authority 455.2273, 475.05 FS. Law Implemented 455.227, 455.2273, 475.22, 475.24, 475.25, 475.42, 475.453 FS. History--New 11-24-86, Amended 10-13-88, 4-20-89, 5-20-90, 12-29-91, 11-8-92, 6-28-93, Formerly 21V-24.001, Amended 11-16-93, 2-29-96, 12-30-97, 11-29-98, 1-18-00, 2-5-04, 1-30-06, 12-25-07, 7-21-10, 11-15-12.*