

Halsey Beshears, Secretary

Ron DeSantis, Governor

Minutes of
THE FLORIDA REAL ESTATE COMMISSION
August 17, 2020
Tele-Conference/Live-Stream Meeting

APPROVED

November 2020

August 17, 2020

Vice Chair Dick Fryer called the meeting of the Florida Real Estate Commission to order at approximately 1:10 p.m., via Tele-Conference/Live-Stream, on this Monday, the 17th day of August, 2020. Executive Director Robin Rogers conducted Roll Call with the below listed participants responding with “present.”

Commissioners

- Chair Patti Ketcham – excused absence
- Vice-Chair Dick Fryer – via Live-Stream
- Patricia Fitzgerald – via Live-Stream
- Poul Hornsleth – via telephone
- Guy Sanchez – via Live-Stream
- Randy Schwartz – excused absence

Mr. Lawrence Harris, Senior Assistant Attorney General appeared via Live-Stream as counsel for the Commission. Mr. Harris declared quorum present.

Staff

- Robin Rogers, Executive Director – in person
- Al Cheneler, Chief Attorney – via telephone
- Janice Lugo, Operations Support Supervisor – via telephone
- Megan McAvoy, Regulatory Consultant – via telephone
- Giuvanna Corona, Regulatory Consultant – in person
- Emy Orellana, Regulatory Specialist III – in person
- Jocelyn Pomales, Education Coordinator – via telephone
- Magnolia Reporting, Inc. (407) 896-1813 provided court services – via telephone

Summary of Applicants

Agenda B

Giuvanna Corona, Regulatory Consultant, presented 26 Applicants requesting to sit for the real estate examination. Results are as follows:

#	TAB	NAME	PRESENT	MOVED by COMMISSIONER	SECONDED by COMMISSIONER	VOTE	COUNT
1	A	Alexis, Keren	Yes	Hornsleth	Fryer	Approved	3-1
2	B	Baker, Shawn	Yes	Fitzgerald	Hornsleth	Approved	Unanimous
3	C	Barouh, Ryan	Yes	Sanchez	Hornsleth	Denied	Unanimous
4	D	Blue, Lacotia	Yes	Hornsleth	Fryer	Approved	3-1
21	E	Bushnell, Christian	Yes	Sanchez	Hornsleth	Denied	Unanimous
5	F	Caudell, Kimberly	Yes	Fitzgerald	Sanchez	Approved	Unanimous

#	TAB	NAME	PRESENT	MOVED by COMMISSIONER	SECONDED by COMMISSIONER	VOTE	COUNT
6	G	Dewitt, Barry	Yes	Withdrawn			
7	H	Elekes, Andrew	Yes	Fitzgerald	Sanchez	Approved	Unanimous
8	I	Gines, Fidel	Yes	Fitzgerald	Hornsleth	Approved	3-1
9	J	Goldwire, Ladi	Yes	Fitzgerald	Hornsleth	Approved	Unanimous
10	K	Gonzales, Yelina	Yes	Hornsleth	Fitzgerald	Approved	3-1
11	L	Gordon, Dominique	Yes	Hornsleth	Sanchez	Approved	Unanimous
12	M	Lacayo Leiva, Evelyn	Yes	Fitzgerald	Sanchez	Denied	Unanimous
13	N	Love, Amir	Yes	Sanchez	Hornsleth	Approved	Unanimous
22	O	Miller III, Albert	No	Sanchez	Fitzgerald	Denied	Unanimous
23	P	Oliveira, Daniel	No	Sanchez	Fitzgerald	Denied	Unanimous
24	Q	Pichardo, Franklin	No	Sanchez	Hornsleth	Denied	Unanimous
				Commissioner Hornsleth moved; seconded by Commissioner Sanchez to stay the Notice of Intent to Deny for 30-days.			
25	R	Ramirez Pagan, Aida	No	Rescheduled to August 18, 2020			
14	S	Reiss, Joseph	Yes	Sanchez	Hornsleth	Denied	Unanimous
15	T	Rush, Lydia	Yes	Hornsleth	Sanchez	Approved	Unanimous
16	U	Smith, Joelle	Yes	Commissioner Hornsleth moved, seconded by Commissioner Fitzgerald to table the matter. The motion passed unanimously. The applicant waived the 90-days.			
25	V	Thomas, Dante	Yes	Hornsleth	Sanchez	Approved	Unanimous
26	W	Torrero, Yaramis	No	Rescheduled and Waived the 90-days			
17	X	Valera, Marianella	Yes		Hornsleth	Denied	Unanimous
18	Y	Villate, Will	No	Hornsleth	Fitzgerald	Approved	Unanimous
19	Z	Young, Devonye	No	Hornsleth	Sanchez	Approved	Unanimous

Agenda C

Giuvanna Corona, Regulatory Consultant, presented 1 Applicant requesting to sit for the real estate examination. Results are as follows:

#	TAB	NAME	PRESENT	MOVED by COMMISSIONER	SECONDED by COMMISSIONER	VOTE	COUNT
1	A	Moise, Marie	Yes	Sanchez	Hornsleth	Approved	Unanimous

Consent Agenda A

The Commission considered 32 applicants from the Consent Agenda A; Commissioner Sanchez moved; Commissioner Hornsleth seconded the motion to approve 22 applicants and require 10 applicants to be placed on the Summary of Applicant Agenda; the motion passed without dissent (see attached).

Consent Agenda B

The Commission considered 26 applicants from the Consent Agenda A; Commissioner Sanchez moved; Commissioner Hornsleth seconded the motion to approve 17 applicants and require 9 applicants to be placed on the Summary of Applicant Agenda; the motion passed without dissent (see attached)

Executive Director's Comments

Executive Director Rogers thanked the Commission and Division staff for a great meeting; addressed questions and comments from the Commission.

Chair's Comments

Vice-Chair Fryer thanked the Commission and Division staff for a great meeting.

Public Comments

The Commission received a public comment via letter by Mr. Mike Watson, Mangrove Property Management (see attached).

Adjournment

There being no other business, the Chair adjourned the meeting at approximately 4:50 p.m. The next general meeting – licensing of the Florida Real Estate Commission is scheduled for August 18, 2020, via Tele-Conference/Live-Stream.

ATTEST:



Richard "Dick" Fryer, Chair
Florida Real Estate Commission



Giovanna Corona, Executive Director
Florida Real Estate Commission

August 2020 Consent B Final Votes

TAB	NAME	VOTE	PK		DF		PF		PH		GS		RS		TOTAL	
			APPROVE	PULL	APPROVE	PULL	APPROVE	PULL	APPROVE	PULL	APPROVE	PULL	APPROVE	PULL	APPROVE	PULL
A	ANDERSON, LIBO	APPROVED			X		X		X		X		X		5	0
B	ARIAS, ERICA GABRIELA	APPROVED			X		X		X		X		X		5	0
C	BAKER, AMY MARIE	PULLED				X		X				X	X		2	3
D	BALL, KURTIS	APPROVED			X			X				X	X		3	2
E	BOYCE, SEAN PATRICK	PULLED				X		X		X		X		X	0	5
F	BUCIO, CASSANDRA ASHLEY	PULLED				X		X		X	X		X		2	3
G	CENTENO, YOLANDA	APPROVED			X		X		X		X		X		5	0
H	DIXON, JAQUAVIS DAWON	APPROVED			X		X		X			X	X		4	1
I	ENRIQUEZ, BRYAN	APPROVED			X		X		X		X		X		5	0
J	KLINE, JACOB	PULLED				X	X			X		X		X	1	4
K	KNAPP, JENNIFER HALL	PULLED				X		X				X	X		2	3
L	MAGLIARO, LORI	APPROVED			X		X		X		X		X		5	0
M	MCFADDEN, ANDREA JUDON	APPROVED			X			X				X	X		3	2
N	MIRANDA ROMAN, YOMARIE	PULLED				X		X		X		X		X	0	5
O	NEWMAN, PAUL ELLIOTT	PULLED				X		X		X		X		X	0	5
P	PARKER, STEPHANIE BROOKS	APPROVED			X			X	X			X	X		3	2
Q	PARTENZA, KAELYN MARIE	APPROVED				X		X			X		X		3	2
R	PATTON, MICHELLE DEMETRA	APPROVED			X		X		X			X	X		4	1
S	POUERIE, JOHN	PULLED				X		X		X		X	X		1	4
T	PRZEPASNIAK, COURTNEY	APPROVED			X		X		X		X		X		5	0
U	RAMIREZ, XAVIER	PULLED				X	X			X		X	X		2	3
V	SEPULVEDA, NANCY	APPROVED			X		X		X			X	X		4	1
W	SHIPMAN, AARON PATRICK	APPROVED			X		X		X			X	X		4	1
X	WANDER, FREDERICK WILLIAM	APPROVED			X			X	X			X	X		3	2
Y	YANCEY, ADONIS E	APPROVED			X		X		X		X		X		5	0
Z	ZUCCA, MERRITT FRANCIS	APPROVED			X			X	X			X	X		3	2



Michael (Mike) Watson
Owner / Broker

11231 US Hwy 1 #360
North Palm Beach, FL 33408
Cell: 561.309.7741
Fax: 561.270.0580
E-mail: Mike@MangrovePM.com
Web: www.MangrovePM.com

7/13/2020

Kathy McGinnis
DBPR Division of Real Estate
400 W. Robinson St, N 801
Orlando, FL 32801

RE: #BK3268165 – Residential Property Management License


Dear Ms. McGinnis,

I would like to inquire to see if the State of Florida has ever considered offering a residential property management license? Many other states offer a "Property Management License" (not to be confused with a CAM license). Residential Property Managers are faced with a significant amount of liability and we are entrusted with large sums of money (security deposits, advanced rent, & maintenance reserves) which are typically held in-house escrow accounts. For this reason, additional training and a necessary license would be beneficial to property managers, rental property owners and the FREC.

Too frequently I come across licensed real estate agents who manage a few properties "on the side" without the supervision of their broker. They handle the funds directly which they should not be doing. They try to manage properties to satisfy their clients, but they lack the necessary knowledge of Florida Landlord Tenant Law, Escrow Requirements, Fair Housing Laws, ADA Laws, etc... If the State of Florida would create a license for residential property management it would weed out many of the real estate agents managing properties illegally and it would protect the public.

I am sure this would be a huge undertaking, but a win-win for everyone. Can you please tell me who would have the authority to create and require such a license in the State of Florida? I am a member of the Florida Chapter of the National Association of Residential Property Managers and I would to forward my findings to NARPM. Thank you.

Sincerely,



Mike Watson



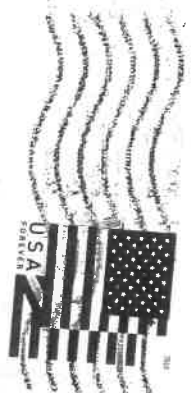
MANGROVE

PROPERTY MANAGEMENT

11231 US Hwy 1 #360 N. Palm Bch, FL 33408 (561)510-8666

WEST PALM BEACH FL 334

13 JUL 2020 PM 2 L



RECEIVED

JUL 17 2020

DIVISION OF REAL ESTATE

Handwritten initials

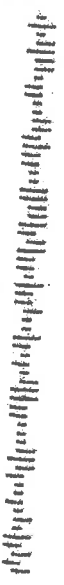
Division of Real Estate

Attn: Kathy Mc Ginnis

400 West Robinson St. N 801

Orlando, FL 32801

32801-175741



Halsey Beshears, Secretary

Ron DeSantis, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
August 18, 2020
Tele-Conference/Live-Stream Meeting**

August 18, 2020

Vice Chair Dick Fryer called the meeting of the Florida Real Estate Commission to order at approximately 8:15 a.m., via Tele-Conference/Live-Stream, on this Tuesday, the 18th day of August, 2020. Executive Director Robin Rogers conducted Roll Call with the below listed participants responding with “present.”

Commissioners

Chair Patti Ketcham – excused absence
Vice-Chair Dick Fryer – via Live-Stream
Patricia Fitzgerald – via Live-Stream
Poul Hornsleth – via telephone
Guy Sanchez – via Live-Stream
Randy Schwartz – via telephone

Mr. Lawrence Harris, Senior Assistant Attorney General appeared via Live-Stream as counsel for the Commission. Mr. Harris declared quorum present.

Staff

Robin Rogers, Executive Director – in person
Al Cheneler, Chief Attorney – via telephone
Janice Lugo, Operations Support Supervisor – via telephone
Megan McAvoy, Regulatory Consultant – via telephone
Giuvarna Corona, Regulatory Consultant – in person
Emy Orellana, Regulatory Specialist III – in person
Jocelyn Pomales, Education Coordinator – via telephone
Magnolia Reporting, Inc. (407) 896-1813 provided court services – via telephone

Education Agenda

Jocelyn Pomales, Education Coordinator, presented 5 Real Estate Education Course for the Commission’s review and consideration.

Agenda A

Tab A – *Property Inspection Issues* – New Course (3 hours specialty, classroom) – application number 43435 – CE Shop Inc.

The applicant was not present in support of the application. Commissioner Schwartz moved to approve; Commissioner Sanchez seconded the motion. The motion passed without dissent.

Tab B – *Social Media Bootcamp* – New Course (2 hours specialty, classroom) – application number 43441 – Elm Street Technology

The applicant was not present in support of the application. Commissioner Schwartz moved to approve; Commissioner Sanchez seconded the motion. The motion passed without dissent.

Tab C – *Florida Sales Associate Post Licensing Course* – New Course (45 hours post, distance) – application number 43609 – Onlineed Inc.

The applicant was not present in support of the application. Commissioner Schwartz moved to deny; Commissioner Fitzgerald seconded the motion. The motion passed without dissent.

Tab D – *Marketing Diversity on the Internet* – New Course (2 hours specialty, classroom) – application number 42917 – Trans Equity Inc.

The applicant was not present in support of the application. Commissioner Schwartz moved to approve; Commissioner Sanchez seconded the motion. The motion passed without dissent.

Agenda B

Tab A – *Florida Pre-License Salespersons Course* – New Course (63-hours pre-license, distance) – application number 43731 – Global Real Estate School

The applicant was present in support of the application. Commissioner Fitzgerald moved to approve; Commissioner Schwartz seconded the motion. The motion passed with a 4-1 vote.

Special Agenda A

Request to Waive or Repeal 61J2-3.015(a) and (b), F.A.C. – John Greer

The petitioner was not present. Commissioner Schwartz was recused. After discussion, Commissioner Hornsleth moved; seconded by Commissioner Fitzgerald; to propose language for rulemaking to strike the last five (5) digits of the social security number. The motion passed without dissent. The Commission answered no to all of Statement of Estimated Regulatory Costs (SERC) questions. Commissioner Hornsleth moved; seconded by Commissioner Sanchez; to strike thru the last five (5) digits of the social security number in paragraphs 6a and 6b. The motion passed without dissent.

Request for Course Extension of 2-year Expiration of Courses – Vincent Burnett

The petitioner was not present. After discussion, Commissioner Hornsleth moved; seconded by Commissioner Fitzgerald; to approve the request for Course Extension of 2-year Expiration of Courses to December 31, 2020. The motion passed without dissent.

Request for Reconsideration and Correction of Notice of Intent to Deny – Stacey Anderson

The petitioner was not present. After discussion, Commissioner Sanchez moved; seconded by Commissioner Fitzgerald; to approve the request for Reconsideration and Correction of Notice of Intent to Deny citing chapter 475.25(1)(s), Florida Statute, and chapter 455.227(1)(f), Florida Statute. The motion passed without dissent.

Summary of Applicants

Agenda A

Giuvanna Corona, Regulatory Consultant, presented 54 Applicants requesting to sit for the real estate examination. Results are as follows:

#	TAB	NAME	PRESENT	MOVED by COMMISSIONER	SECONDED by COMMISSIONER	VOTE	COUNT
8	A	Cruz, Nelson	Yes	Sanchez	Schwartz	Deny	Unanimous
5	B	Newsome, Scherell Daniel Villazon, Esq.	Yes	Schwartz	Fitzgerald	Approve	Unanimous
9	C	Ochoa, Florinda	Yes	Withdrawn			
10	D	Santullo, Paula	Yes	Hornsleth	Schwartz	Approve	Unanimous
39	E	Suarez, Eylen	No	Rescheduled and previously waived the 90-days			
11	F	Aleman Lopez, Sergio	Yes	Hornsleth	Fitzgerald	Approve	4-1
13	G	Balistreri, Dominic	Yes	Schwartz	Sanchez	Approve	Unanimous
12	H	Buscaron, Yosbel	Yes	Schwartz	Sanchez	Deny	Unanimous
40	I	Carres, Nicholas	No	Hornsleth	Fitzgerald	Approve	Unanimous
14	J	Chandler, Elizabeth	Yes	Fitzgerald	Sanchez	Approve	Unanimous
41	K	Daniels, Scott	No	Rescheduled and previously waived the 90-days			
42	L	Debuck, Jacob	No	Sanchez	Hornsleth	Deny	Unanimous
15	M	Filosa, Philip	Yes	Fitzgerald	Hornsleth	Approve	Unanimous
16	N	Garcia, Juis	Yes	Schwartz	Sanchez	Approve	Unanimous
43	O	Gonzalez Jr., Cesar	No	Rescheduled and waived the 90-days			
19	P	Gonzalez, Jesse	Yes	Fitzgerald	Hornsleth	Approve	3-2
17	Q	Hamdan, Hytham	Yes	Hornsleth	Sanchez	Approve	Unanimous
18	R	Hampton, Jacob	Yes	Sanchez	Schwartz	Approve	Unanimous
20	S	Hernandez Corona, Estella	Yes	Sanchez	Schwartz	Approve	Unanimous
3	T	Hernandez, Lissett Daniel Izquierdo, Esq.	Yes Yes	Schwartz	Fitzgerald	Approve	Unanimous
21	U	Hixon III, Rayford	Yes	Fitzgerald	Schwartz	Approve	Unanimous
4	V	Hughes, Ryan Rickey Strong, Esq	Yes Yes	Fitzgerald	Schwartz	Approve	Unanimous
44	W	Jackson, Shantay	No	Sanchez	Schwartz	Deny	Unanimous
33	X	Joel, Shannon	Yes	Hornsleth	Schwartz	Approve	4-1
22	Y	Kirshtein Jr., Michael	Yes	Sanchez	Schwartz	Deny	3-2
23	Z	Kramer, Garrett	Yes	Fitzgerald	Schwartz	Approve	Unanimous
24	AA	Lambeth, Caleb	Yes	Sanchez	Hornsleth	Approve	Unanimous
25	AB	Lambright, Gabrielle	Yes	Sanchez	Hornsleth	Deny*	3-2*
29	AC	Li, Jiao Jiao	Yes	Hornsleth	Schwartz	Approve	Unanimous
26	AD	Lopes, Leonel	Yes	Sanchez	Schwartz	Deny	Unanimous
45	AE	Louis, Christina	No	Sanchez	Hornsleth	Deny	Unanimous
6	AF	Mahan, Christopher Daniel Villazon, Esq.	Yes Yes	Schwartz	Sanchez	Approve	Unanimous
46	AG	McDowell Waters, Tami	No	Rescheduled and previously waived the 90-days			
47	AH	Metsch, Leif	No	Sanchez	Schwartz	Deny	Unanimous
28	AI	Mondino, Lucas	Yes	Sanchez	Schwartz	Approve	Unanimous
29	AJ	Montgomery, Lucas	Yes	Schwartz	Sanchez	Approve	Unanimous

#	TAB	NAME	PRESENT	MOVED by COMMISSIONER	SECONDED by COMMISSIONER	VOTE	COUNT
48	AK	O'Donnell, Nickiann	No	Sanchez	Hornsleth	Deny	Unanimous
32	AL	Oms, Roberto	Yes	Sanchez	Schwartz	Deny*	3-2*
34	AM	Orta, Miguel	Yes	Hornsleth	Fitzgerald	Approve	4-1
35	AN	Perry, Cindy	Yes	Fitzgerald	Sanchez	Approve	Unanimous
49	AO	Pettress, Chandor	No	Sanchez*	Hornsleth*	Deny	Unanimous
50	AP	Plair, Claytrina	No	Sanchez	Hornsleth	Deny	Unanimous
7	AQ	Reid Jr., Jimmy Daniel Villazon, Esq.	Yes Yes	Schwartz	Sanchez	Approve	Unanimous
51	AR	Santalo, Betsy	No	Rescheduled and previously waived the 90-days			
1	AS	Santos, Carlos Sandro Garcia, Interpreter	Yes	Sanchez	Schwartz	Deny	Unanimous
31	AT	Schoof, Sandra	Yes	Hornsleth	Sanchez	Approve	Unanimous
36	AU	Schweitzer, Christopher	Yes	Schwartz	Sanchez	Approve	Unanimous
37	AV	Shoemaker, Michael	Yes	Fitzgerald	Sanchez	Approve	Unanimous
30	AW	Sosa, Maria Karina Ferrer, Applicant's Interpreter	Yes Yes	Sanchez	Hornsleth	Deny	Unanimous
52	AX	Stewart, Lashanna	No	Sanchez	Schwartz	Approve	Unanimous
38	AY	Todd, Tyrene	Yes	Hornsleth	Fitzgerald	Approve	Unanimous
53	AZ	Walker, Shawntrece	No	Sanchez	Schwartz	Deny	Unanimous
54	BA	Wong, Piero	No	Sanchez	Schwartz	Deny	Unanimous

Agenda B

#	TAB	NAME	PRESENT	MOVED by COMMISSIONER	SECONDED by COMMISSIONER	VOTE	COUNT
2	R	Cruz, Nelson Sandro Garcia, Interpreter	Yes Yes	Sanchez	Fitzgerald	Deny	Unanimous

Executive Director's Comments

Executive Director Rogers thanked the Commission and Division staff for a great meeting; addressed questions and comments from the Commission.

Chair's Comments

Vice Chair Fryer thanked the Commission and Division staff for a great meeting. Commissioner Sanchez requested a copy of the current Approvable Guidelines to be disseminated to the Commission. Commissioners Fitzgerald, Sanchez and Fryer remarked the content and implementation of the Approvable Guidelines is a decision of the Commission.

Public Comments

The Commission did not receive public comments from members of the audience via GoToMeeting chat.

Adjournment

There being no other business, the Chair adjourned the meeting at approximately 3:45 p.m. The next general meeting – licensing of the Florida Real Estate Commission is scheduled for September 14,

2020, via Tele-Conference/Live-Stream.

ATTEST:



Richard "Dick" Fryer, Chair
Florida Real Estate Commission



Giovanna Corona, Executive Director
Florida Real Estate Commission

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
August 19, 2020
Tele-Conference/Live-Stream Meeting**

August 19, 2020

Vice Chair Dick Fryer called the meeting of the Florida Real Estate Commission to order at approximately 8:15 a.m., via Tele-Conference/Live-Stream, on this Wednesday, the 19th day of August, 2020. Executive Director Robin Rogers conducted Roll Call with the below listed participants responding with “present.”

Commissioners

Chair Patti Ketcham – excused absence
Vice-Chair Dick Fryer – via Live-Stream
Patricia Fitzgerald – via Live-Stream
Poul Hornsleth – via telephone
Guy Sanchez – via Live-Stream
Randy Schwartz – via telephone

Mr. Lawrence Harris, Senior Assistant Attorney General appeared via Live-Stream counsel for the Commission. Mr. Harris declared quorum present.

Staff

Robin Rogers, Executive Director – in person
Al Cheneler, Chief Attorney – via telephone
James Fortunas, Deputy Chief Attorney – via telephone
Nadia Hamade, Deputy Chief Attorney – via telephone
Mackenzie Medich, Assistant General Counsel – via telephone
Gene Aldridge, Assistant General Counsel – via telephone
Delhon Braaten, Assistant General Counsel – via telephone
Heather Page, Assistant General Counsel – via telephone
Amanda Bova, Assistant General Counsel – via telephone
Clair Dixon, Legal Assistant – via telephone
Kevin Harris, Legal Assistant – via telephone
Giovanna Corona, Regulatory Consultant – in person
Emy Orellana, Regulatory Specialist III – in person
Magnolia Reporting, Inc. (407) 896-1813 provided court services. – via Live-Stream

Escrow Disbursement Orders – Agenda

Nadia Hamade, Legal Assistant, presented 9 Escrow Disbursement Orders.

Commissioner Fitzgerald moved to approve Tabs A, B, C, F, G of the Escrow Disbursement Order, seconded by Commissioner Schwartz; the motion passed without dissent.

Commissioner Schwartz moved to approve Tab D of the Escrow Disbursement Order; seconded by Commissioner Fitzgerald; the motion passed without dissent. Commissioner Hornsleth was recused.

Commissioner Hornsleth moved to approve Tab E and Tab H of the Escrow Disbursement Order; seconded by Commissioner Fitzgerald; the motion passed without dissent. Commissioner Sanchez was recused.

Commissioner Schwartz moved to approve Tab I of the Escrow Disbursement Order as an Interpleader; seconded by Commissioner Sanchez; the motion passed without dissent.

Recovery Fund Claims Docket

Ms. Nadia Hamade, Deputy Chief Attorney, presented 1 Recovery Fund Claim.

Tab A – Compean v Gonzalez, Case Number 2019-004746

Mr. Fernandez was present and represented by counsel; Mr. Martin L. Hoffman, Esquire, present. Licensee was not present and not represented by counsel. After discussion, Commissioner Schwartz moved to grant the claim; seconded by Commissioner Sanchez; the motion passed without dissent.

Ms. Heather Page, Assistant General Counsel, presented 3 Recovery Fund Claims.

Tab B – Hendrix v Marro, Case Number 2020-004617

Claimant, Mr. Hendrix, was present and not represented by counsel. Licensee was not present and not represented by counsel. After a lengthy discussion and with great empathy toward Mr. Hendrix, Commissioner Schwartz moved to support the recommendations of the Department to deny the claim without prejudice; seconded by Commissioner Fitzgerald; the motion passed with a 4-1 vote.

Tab C – West Manatee Investments, LLC v Rental Marketing Solutions, LLC, Case Number 2020-027237

Claimant was not present and represented by counsel; Mr. Peter Pike, Esquire, present. Licensee was not present and not represented by counsel. The Commission denied the claim by acclamation as recommended by the Department.

Tab D – West Manatee Investments, LLC v Rental Marketing Solutions Elite Properties, LLC, Case Number 2020-027233

Claimant was not present and represented by counsel; Mr. Peter Pike, Esquire, present. Licensee was not present and not represented by counsel. The Commission denied the claim by acclamation as recommended by the Department.

Legal Appearance Docket

The Commission addressed the Legal Appearance Docket, hearing 20 docket items with the following results:

Tab G – Mark Hollander, SL3183844, Case No. 2019007796 – Respondent’s Request for Informal Hearing

The Respondent was not present and represented by counsel, Mr. Stephen B. Burch, Esquire, present. Ms. Medich represented the Department. Chair Ketcham served on probable cause and was recused.

After discussion, Commissioner Fitzgerald moved; seconded by Commissioner Schwartz; to grant the continuance to September 2020; the motion passed with a 4-1 vote.

Tab N – James Sinclair, BK3256888, Case No. 2019020819 – Respondent’s Request for Informal Hearing

The Respondent was present and represented by counsel, Mr. Rachel Clark, Esquire, present. Ms. Hamade represented the Department. Commissioner Sanchez served on probable cause and was recused.

After discussion, Commissioner Hornsleth moved; seconded by Commissioner Schwarz; to dismiss the Administrative Complaint; the motion passed without dissent.

Tab I – Reyner Labrada, BK3186318, Case No. 2019041947 – Respondent’s Request for Informal Hearing

The Respondent was not present and represented by counsel, Mr. Luis Torrens, Esquire, present and Mr. Carlos Ferreyros, Esquire, present. Mr. Aldridge represented the Department. Commissioner Hornsleth served on probable cause and was recused.

After discussion, Commissioner Hornsleth moved; seconded by Commissioner Sanchez; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed with a 3-1 vote. Commissioner Hornsleth moved; seconded by Commissioner Sanchez; to impose the following sanctions: **probation for 3 months; administrative fine of \$1,000.00; investigative costs of \$270.60; 28-hour Broker Reactivation education course and an audit by the Department within 30 days**; the motion passed with a 3-1 vote.

Violation(s): 475.25(1)(e), Florida Statutes, through a violation of Section 475.5015, Florida Statutes, by failing to keep and making available to the department such books, accounts, and records as will enable to the department to determine whether such broker is in compliance with the provisions of this chapter.

Tab J – Reyner Labrada, BK3186318, Case No. 2019055671 – Respondent’s Request for Informal Hearing

The Respondent was not present and represented by counsel, Mr. Luis Torrens, Esquire, present and Mr. Carlos Ferreyros, Esquire, present. Mr. Aldridge represented the Department. Commissioner Hornsleth served on probable cause and was recused.

After discussion, Commissioner Sanchez moved; seconded by Commissioner Schwartz; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Sanchez moved; seconded by Commissioner Schwartz; to impose the following sanctions: **suspension for 2 years, administrative fine of \$1,000.00; investigative costs of \$648.45**; the motion passed without dissent.

Violation(s): Section 475.25(1)(b), Florida Statutes, by being guilty of fraud, misrepresentation, and dishonest dealings, concealment, culpable negligence or breach of trust, or has formed an intent, design or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design or scheme.

Tab K – Miami Neighborhood Realty, PA, CQ1031209, Case No. 20190045789 – Respondent’s Request for Informal Hearing

The Respondent was not present and represented by counsel, Mr. Luis Torrens, Esquire, present and Mr. Carlos Ferreyros, Esquire, present. Mr. Aldridge represented the Department. Commissioner Hornsleth served on probable cause and was recused.

After discussion, Commissioner Hornsleth moved; seconded by Commissioner Sanchez; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Hornsleth moved; seconded by Commissioner Sanchez; to impose the following sanctions: **investigative costs of \$264.00 and an audit by the Department within 30 days**; the motion passed without dissent.

Violation(s): 475.25(1)(e), Florida Statutes, through a violation of Section 475.5015, Florida Statutes, by failing to keep and making available to the department such books, accounts, and records as will enable to the department to determine whether such broker is in compliance with the provisions of this chapter.

Tab A – Herman Blum, SL3320456, Case No. 2018015033 – Respondent’s Request for Informal Hearing

The Respondent was present and represented by counsel, Mr. Antonio Hernandez, Esquire, present. Ms. Medich represented the Department. Vice-Chair Fryer served on probable cause and was recused.

After discussion, Commissioner Sanchez moved; seconded by Commissioner Schwartz; to deny Mr. Hernandez's motion to dismiss; the motion passed without dissent. Commissioner Sanchez moved; seconded by Commissioner Schwartz; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Sanchez moved; seconded by Commissioner Schwartz; to impose the following sanctions: **suspension for 3 years; probation for 6 months; administrative fine of \$3,200.00; investigative costs of \$660.00**; the motion passed with a 3-1 vote.

Violation(s): Section 475.25(1)(b), Florida Statutes, by being guilty of fraud, misrepresentation, and dishonest dealings, concealment, culpable negligence or breach of trust, or has formed an intent, design or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design or scheme; Section 475.25(1)(d)1, Florida Statutes, by failing to account or deliver to any person, including a license under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon a demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft, abstract title, mortgage, conveyances, lease or other document or things of value; Section 475.25(1)(e), Florida Statutes, through a violation of Section 475.42(1)(b), Florida Statutes, a person licensed as a sales associate may not act as a broker or a sales associate for any person not registered as his employer; Section 475.25(1)(e), Florida Statutes, through a violation of Section 475.42(1)(d), Florida Statutes, by failing to collect any money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, in the name of the employer and with the express consent of the employer.

Tab B – Christopher Browne, SL692482, Case No. 2019048073 – Respondent's Request for Informal Hearing

The Respondent was present and not represented by counsel. Ms. Medich represented the Department. Commissioner Hornsleth served on probable cause and was recused.

After discussion, Commissioner Schwartz moved; seconded by Commissioner Sanchez; to grant the petitioner's request to proceed with the informal hearing. Commissioner Fitzgerald moved; seconded by Commissioner Sanchez; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Fitzgerald moved; seconded by Commissioner Sanchez; to impose the following sanctions: **probation for 6 months; investigative costs of \$330.00; 3-hour core law education course in addition to regular continuing education**; the motion passed without dissent.

Violation(s): Section 475.25(1)(e), Florida Statutes, through a violation of Section 455.227(1)(t), Florida Statutes, by failing to report in writing to the board 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.

Tab C – Phillip Delgado, SL3058962, Case No. 2019017490 – Respondent's Request for Informal Hearing

The Respondent was present and not represented by counsel. Ms. Medich represented the Department. Chair Ketcham served on probable cause and was recused.

After discussion, Commissioner Schwartz moved; seconded by Commissioner Fitzgerald; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Schwartz moved; seconded by Commissioner Fitzgerald; to impose the following sanctions: **administrative fine of \$500.00; investigative costs of \$412.50; 3-hour core law education course in addition to regular continuing education**; the motion passed with a 3-2 vote.

Violation(s): Section 475.25(1)(e), Florida Statutes, through a violation of Section 455.227(1)(t), Florida Statutes, by failing to report in writing to the board 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.

Tab D – Craig Dolgin, SL3282577, Case No. 2019037548 – Respondent’s Request for Informal Hearing

The Respondent was not present and not represented by counsel. Ms. Medich represented the Department. Commissioner Fitzgerald served on probable cause and was recused.

After discussion, Commissioner Sanchez moved; seconded by Commissioner Hornsleth; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Sanchez moved; seconded by Commissioner Hornsleth; to impose the following sanctions: **revocation; administrative fine of \$5,500.00; investigative costs of \$425.70**; the motion passed without dissent.

Violation(s): Section 475.25(1)(b), Florida Statutes, by being guilty of fraud, misrepresentation, and dishonest dealings, concealment, culpable negligence or breach of trust, or has formed an intent, design or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design or scheme; Section 475.25(1)(k), Florida Statutes, by failing to immediately place, upon receipt, any money, fund, deposit, check or draft entrusted to her or him by any person dealing with her or him as a broker in escrow with a title company banking institution credit union or savings and loans association located or doing business in this state, or to deposit such funds in a savings and loans association located and doing business in this state, wherein that funds shall be kept until disbursement thereof properly authorized; or has failed, if sales associate to immediately place with her or his registered employer any money, fund deposit, check or draft entrusted to her or him by any person dealing with her or him as agent of the registered employer; Section 475.42(1)(b), Florida Statutes, a person licensed as a sales associate may not act as a broker or a sales associate for any person not registered as his employer; Section 475.42(1)(d), Florida Statutes, by failing to collect any money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, in the name of the employer and with the express consent of the employer.

Tab E – Lawrence Fallo, Jr, BK539969, Case No. 2019037548 – Respondent’s Request for Informal Hearing

The Respondent was present and not represented by counsel. Mr. Aldridge represented the Department. Commissioner Fitzgerald served on probable cause and was recused.

After discussion, Commissioner Schwartz moved; seconded by Commissioner Sanchez; to find the Respondent guilty as charged of only Count 3 in the Administrative Complaint; the motion passed without dissent. Commissioner Schwartz moved; seconded by Commissioner Sanchez; to impose the following sanctions: **administrative fine of \$1,000.00; investigative costs of \$250.80; 30-hour broker post management education course**; the motion passed without dissent.

Violation(s): Section 475.25(1)(u), Florida Statutes, by failing to direct, control, or manage a broker associate or sales associate employed by such broker.

Tab F – Geo Geovanni, BK3099389, Case No. 2019037548 – Respondent’s Request for Informal Hearing

The Respondent was not present and not represented by counsel. Ms. Medich represented the Department. Commissioner Hornsleth served on probable cause and was recused.

After discussion, Commissioner Schwartz moved; seconded by Commissioner Sanchez; to find the violations fall within the practice of real estate and proceed with the Informal Hearing. Commissioner Sanchez moved; seconded by Commissioner Fitzgerald; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Sanchez moved; seconded by Commissioner Fitzgerald; to impose the following sanctions: **revocation; administrative fine of \$2,000.00; investigative costs of \$528.00**; the motion passed without dissent.

Violation(s): Section 475.25(1)(e), Florida Statutes, through a violation of Section 455.227(1)(c), Florida Statutes, by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession; Section 475.25(1)(f), Florida Statutes, by being convicted or being found guilty of or entered a plea of nolo contendere to, regardless of adjudication, a crime in which directly relates to the activities of a licensed broker or sales associate, or involves moral turpitude or fraudulent or dishonest dealing.

Tab H – Yana Karpova, SL3083958, Case No. 2018019114 – Respondent's Request for Informal Hearing

The Respondent was not present and not represented by counsel. Mr. Braaten represented the Department. Vice-Chair Fryer served on probable cause and was recused.

After discussion, Commissioner Hornsleth moved; seconded by Commissioner Schwartz; to continue the case to the October 2020 meeting; the motion passed without dissent.

Tab L – David Newell, SL3344143, Case No. 2019022077 – Respondent's Request for Informal Hearing

The Respondent was not present and not represented by counsel. Ms. Medich represented the Department. Commissioner Fitzgerald served on probable cause and was recused.

After discussion, Commissioner Schwartz moved; seconded by Commissioner Hornsleth; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Schwartz moved; seconded by Commissioner Sanchez; to impose the following sanctions: **revocation; administrative fine of \$1,000.00; investigative costs of \$132.00**; the motion passed without dissent.

Violation(s): Section 475.25(1)(f), Florida Statutes, by being convicted or being found guilty of or entered a plea of nolo contendere to, regardless of adjudication, a crime in which directly relates to the activities of a licensed broker or sales associate, or involves moral turpitude or fraudulent or dishonest dealing.

Tab M – Hernan Perilla, BK3348427, Case No. 2019049451 – Respondent's Request for Informal Hearing

The Respondent was not present and not represented by counsel. Mr. Aldridge represented the Department. Commissioner Hornsleth served on probable cause and was recused.

After discussion, Commissioner Sanchez moved; seconded by Commissioner Fitzgerald; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Sanchez moved; seconded by Commissioner Schwartz; to impose the following sanctions: **revocation; administrative fine of \$3,000.00; investigative costs of \$1,353.00**; the motion passed without dissent.

Violation(s): Section 475.25(1)(e), Florida Statutes, through a violation of Rule 61J2-14.010, Florida Administrative Code, by failing to deliver the escrow to the broker by the end of the next business day after it was received; Section 475.25(1)(e), Florida Statutes, through a violation of Section 475.5015,

Florida Statutes, by failing to keep and making available to the department such books, accounts, and records as will enable to the department to determine whether such broker is in compliance with the provisions of this chapter; Section 475.25(1)(k), Florida Statutes, by failing to immediately place, upon receipt, any money, fund, deposit, check or draft entrusted to her or him by any person dealing with her or him as a broker in escrow with a title company banking institution credit union or savings and loans association located or doing business in this state, or to deposit such funds in a savings and loans association located and doing business in this state, wherein that funds shall be kept until disbursement thereof properly authorized; or has failed, if sales associate to immediately place with her or his registered employer any money, fund deposit, check or draft entrusted to her or him by any person dealing with her or him as agent of the registered employer.

Tab O – Isilio Arriaga, BL674216, Case No. 2019048325 – Voluntary Surrender of License

The Respondent was not present and not represented by counsel. Mr. Aldridge represented the Department. Commissioner Schwartz served on probable cause and was recused.

After discussion, Commissioner Hornsleth moved; seconded by Commissioner Sanchez; moved to accept the Voluntary Surrender of License; the motion passed without dissent.

Tab P – Robert Cramer, BK3099389, Case No. 2019001612 – Voluntary Surrender of License

The Respondent was not present and not represented by counsel. Mr. Fortunas represented the Department. Chair Ketcham served on probable cause and was recused.

After discussion, Commissioner Hornsleth moved; seconded by Commissioner Sanchez; moved to accept the Voluntary Surrender of License; the motion passed without dissent.

Tab Q – Laurie Branch-Conner, BK3148816, Case No. 2019047448 – Motion for Waiver and Entry or Final Order

The Respondent was not present and not represented by counsel. Mr. Aldridge represented the Department. Commissioner Fitzgerald served on probable cause and was recused. Commissioner Sanchez was also recused.

After discussion, Commissioner Hornsleth moved; seconded by Commissioner Schwartz; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Hornsleth moved; seconded by Commissioner Schwartz; to impose the following sanctions: **revocation; administrative fine of \$1,000.00; investigative costs of \$767.25**; the motion passed without dissent.

Violation(s): Section 475.25(1)(d)1, Florida Statutes, by failing to account or deliver to any person, including a license under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon a demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft, abstract title, mortgage, conveyances, lease or other document or things of value.

Tab R – Tammy Jo Carder, SL3025355, Case No. 2019047790 – Motion for Waiver and Entry or Final Order

The Respondent was not present and not represented by counsel. Mr. Aldridge represented the Department. Commissioner Hornsleth served on probable cause and was recused.

After discussion, Commissioner Sanchez moved; seconded by Commissioner Fitzgerald; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Sanchez moved; seconded by Commissioner Fitzgerald; to impose the following

sanctions: **revocation; administrative fine of \$1,000.00; investigative costs of \$437.25**; the motion passed without dissent.

Violation(s): Section 475.25(1)(e), Florida Statutes, through a violation of Section 455.227(1)(t), Florida Statutes, by failing to report in writing to the board 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.

Tab S – Real Estate Management and Consulting, CQ1036977, Case No. 2019038595 – Motion for Waiver and Entry or Final Order

The Respondent was not present and not represented by counsel. Mr. Aldridge represented the Department. Vice-Chair Fryer served on probable cause and was recused.

After discussion, Commissioner Sanchez moved; seconded by Commissioner Hornsleth; to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Sanchez moved; seconded by Commissioner Hornsleth; to impose the following sanctions: **revocation; administrative fine of \$2,000.00; investigative costs of \$313.50**; the motion passed without dissent.

Violation(s): Section 475.25(1)(d)1, Florida Statutes, by failing to account or deliver to any person, including a license under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon a demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft, abstract title, mortgage, conveyances, lease or other document or things of value; Section 475.25(1)(e), Florida Statutes, through a violation of Section 475.5015, Florida Statutes, by failing to keep and making available to the department such books, accounts, and records as will enable to the department to determine whether such broker is in compliance with the provisions of this chapter.

Rules

Mr. Larry Harris, Esquire, FREC Counsel, presented the Rules Agenda.

Proposed Rules 61J2-3.008, 61J2-3.009, 61J2-3.010, 61J2-3.011 and 61J2-3.020, F.A.C.

After discussion, Vice-Chair Fryer moved; seconded by Commissioner Sanchez; to adopt the recommended changes by board counsel “providers and/or schools utilizing this option shall ensure that livestreaming is offered thru a synchronous platform that allows for video-monitoring of attendance”; the motion passed without dissent. Chair Fryer answered in the negative that the changes in the rule would cause any adverse impact on any small business, increase regulatory costs in excess of \$200,000.00 a year, will increase any entity’s cost in excess of 1 million dollars over a period of 5 years. Public comment was received via e-mail by Mr. Andrew “Andy” Brown, The Climer School of Real Estate, Mr. John Greer, Gold Coast, Ms. Jolita Brazzano, Brazzano Realty & Management, LLC, Ms. Linda Crawford, Dearborn Real Estate Education Company, Mr. Toby Schifsky, Kaplan, and Ms. Sharon Hoydich, Florida Realtors. (See attached)

Livestream public comment was received by Ms. Linda Crawford, Dearborn Real Estate Education Company, requesting assurance evaluators are ensuring compliance and not exceeding the duplication cap of 15% as referenced in Rule 61J2-3.008(4)(d)2, F.A.C. In addition, Ms. Crawford, introduced discussion regarding the process of course evaluations speaking against the assignation of a new course number when an updated edition is submitted for evaluation as referenced in Rule 61J2-3.008(4)(b) “Primary schools shall submit pre-license courses for evaluation every new edition. In no event may a course evaluation submission for renewal be made more than four years after after the original approval date.” Ms. Pomales requested the discussion be continued to the next meeting.

Rules Discussion 61J2-2, 61J2-4, 61J2-5, 61J2-10 and 61J2-14, F.A.C.

After discussion, Commissioner Fitzgerald moved; seconded by Commissioner Sanchez; to open rules 61J2-10.032(4), 61J2-10.038, and 61J2-10.038(1) for development, to initiate rule-making to make

changes as recommended, agrees to board counsel's drafted language recommendations, authorize board counsel to respond to JAPC on behalf of the Commission; the motion passed without dissent. Chair Fryer answered in the negative that the changes in the rule would cause any adverse impact on any small business, increase regulatory costs in excess of \$200,000.00 a year, will increase any entity's cost in excess of 1 million dollars over a period of 5 years.

Board Counsel Harris inquired the Commission's opinion regarding LiveStream rule workshops in consideration of COVID-19. The Commission unanimously agreed that rule workshop meeting are to be conducted in-person.

Meeting Minutes and Reports

Ms. Robin Rogers, FREC Executive Director, presented the July 15, 2020 and July 16, 2020 meeting minutes for approval. Commissioner Sanchez moved; seconded by Commissioner Schwartz; to approve the June 2020 meeting minutes. Ms. Rogers presented the Division reports and noted licensee count continues to rise.

Executive Director's Comments

Executive Director Rogers introduced discussion regarding Live-Stream FREC discipline and Continuing Education attendance. The Commission granted permission for FREC discipline and Continuing Education attendance beginning September 2020 with conditions. Ms. Rogers thanked the Commission and Division staff.

Chair's Comments

Vice-Chair Fryer reiterated the importance of everyone being on webcam and thanked the Commission and Division staff for their hard work.

Public Comments

The Commission received public comments from members of the audience.

Adjournment

There being no other business, the Chair adjourned the meeting at approximately 1:24 p.m. The next general meeting – Legal of the Florida Real Estate Commission is scheduled for September 15 and 16, 2020, via Tele-Conference/Live-Stream.

ATTEST:



Richard "Dick" Fryer, Vice-Chair
Florida Real Estate Commission



Giovanna Corona, Executive Director
Florida Real Estate Commission

BILL GALVANO
President



Senator Linda Stewart, Chair
Representative Erin Grall, Vice Chair
Senator Janet Cruz
Senator Ed Hooper
Senator Keith Perry
Senator Tom A. Wright
Representative Vance Arthur Aloupis, Jr.
Representative Tommy Gregory
Representative Cindy Polo
Representative Holly Raschein
Representative Jason Shoaf
Representative Clovis Watson, Jr.

JOSE R. OLIVA
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

July 20, 2020

Mr. Lawrence Harris
Senior Assistant Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**RE: DBPR: Florida Real Estate Commission
Proposed Rules 61J2-3.008, .009, .010, .011, and .020**

Dear Mr. Harris:

I have reviewed the above-referenced proposed rules, which were advertised in the Florida Administrative Register on July 17, 2020. I have the following comments.

61J2-3.008(10): This rule subsection authorizes the use of live streaming technology for delivery of approved in-person education courses. Section 475.182(1) authorizes the use of distance learning courses in lieu of classroom courses. Please explain how live streaming of classes or courses differs from distance learning, and why live streaming courses will not need to meet the requirements of rule 61J2-3.008(4)(b)1. through 3. Section 475.17(2)(a)2. distinguishes between “classroom courses” and “distance learning courses.” As live streaming courses are not conducted in a classroom and are provided to persons in various distant locations, it does not appear that live streaming courses are classroom courses. *See* § 120.52(8)(c), Fla. Stat.

Please explain how the commission is requiring that providers of such pre-licensure courses ensure that the students are physically present for the duration of each live streaming class. Can a student simply log into the course and then walk away?

61J2-3.009(9): This rule subsection authorizes the use of live streaming technology for delivery of approved in-person education courses. Section 475.182(1) authorizes the use of distance learning courses in lieu of classroom courses. Please explain how live streaming of classes or

courses differs from distance learning, and why live streaming courses will not need to meet the requirements of rule 61J2-3.008(4)(b)1. through 3. Section 455.2123 and section 475.182(1) distinguish between “classroom courses” and “distance learning courses.” As live streaming courses are not conducted in a classroom and are provided to persons in various distant locations, it does not appear that live streaming courses are classroom courses. *See* § 120.52(8)(c), Fla. Stat.

Please explain how the commission is requiring that providers of continuing education courses ensure that the licensees are physically present for the duration of each live streaming class. Can a licensee simply log into the course and then walk away?

61J2-3.010(8): See comments to rule 61J2-3.009.

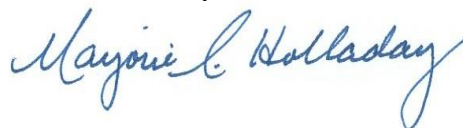
61J2-3.011(10): See comments to rule 61J2-3.009.

61J2-3.020(10): This rule subsection authorizes the use of live streaming technology for delivery of approved in-person education courses. Section 475.182(1)(a) authorizes the use of distance learning courses in lieu of classroom courses. Please explain how live streaming of classes or courses differs from distance learning, and why live streaming courses will not need to meet the requirements of rule 61J2-3.008(4)(b)1. through 3. Section 475.17(5)(c) distinguishes between “classroom courses” and “distance learning courses.” As live streaming courses are not conducted in a classroom and are provided to persons in various distant locations, it does not appear that live streaming courses are classroom courses. *See* § 120.52(8)(c), Fla. Stat.

Please explain how the commission is requiring that providers of continuing education courses ensure that the licensees are physically present for the duration of each live streaming class. Can a licensee simply log into the course and then walk away?

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,



Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward A. Tellechea, Chief Assistant Attorney General



**ASHLEY MOODY
ATTORNEY GENERAL
STATE OF FLORIDA**

OFFICE OF THE ATTORNEY GENERAL
Administrative Law Bureau

Lawrence D. Harris
Senior Assistant Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3771 Fax (850) 922-6425
Lawrence.Harris@myfloridalegal.com

July 20, 2020

Ms. Marjorie C. Holladay
Chief Attorney
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400

RE: DBPR: Florida Real Estate Commission
Proposed Rules 61J2-3.008, .009, .010, .011, and .020

Dear Ms. Holladay:

I am writing in response to your correspondences of July 20, 2020, regarding the above-referenced rule amendments. Resolution of your thoughtful and comments will require discussion and decision by the Commission. The Commission's next available meeting date is August 19, 2020, and I will endeavor to have this correspondence added to the meeting materials for the Commission's review and decision. I will update you on the Commission's decisions thereafter.

Thank you for your comments and assistance regarding the Commission's rulemaking endeavors, and your continued efforts to ensure the Commission remains in full compliance with all statutory requirements and directives. As always, please do not hesitate to contact me if you have any questions or further concerns.

Sincerely,

S/Lawrence D. Harris

Lawrence D. Harris
Senior Assistant Attorney General
Counsel to the Florida Real Estate Commission

cc: Robin B. Rogers, Executive Director
Cassandra Fullove, Paralegal Specialist
Ed Tellechea, Chief Assistant Attorney General

Notice of Proposed Rule

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NOS.:RULE TITLES:

61J2-3.008 Pre-licensing Education for Broker and Sales Associate Applicants

61J2-3.009 Continuing Education for Active and Inactive Broker and Sales Associate Licensees

61J2-3.010 License Reactivation Education for Brokers and Sales Associates

61J2-3.011 Continuing Education for School Instructors

61J2-3.020 Post-licensing Education for Active and Inactive Broker and Sales Associate Licensees

PURPOSE AND EFFECT: The purpose of the amendments is to allow education courses, approved by the Commission for in-person delivery, to be offered by live streaming/videoconferencing/webinar, without that course being conserved to be distance learning and therefore having to include all the additional requirements for a distance course.

SUMMARY: Update rule language regarding education courses.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 455.2123, 475.05, 475.17, 475.182, 475.183(3) FS.

LAW IMPLEMENTED: 455.2123, 455.2178, 475.04, 475.17, 475.182, 475.183, 475.451 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robin Rogers, Executive Director, Florida Real Estate Commission, 400 W. Robinson Street, #N801, Orlando, FL 32801, Robin.Rogers@myfloridalicense.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-3.008 Pre-licensing Education for Broker and Sales Associate Applicants.

(1) No change.

(2)(a) Any licensed sales associate desiring to become licensed as a broker must satisfactorily complete the Commission-prescribed course designated as Course II. This course will consist of 72 hours of 50 minutes each, inclusive of examination, in the fundamentals of real estate appraising, investment, financing, and brokerage and management operations.

(b) No change.

(c) Any school requesting approval for a live distance learning course via streaming course video or any other means of video conferencing technology must submit to the DBPR at the time of course submission all course materials as well as information on the delivery method and software platform being used.

(3) No change.

(4)(a) A grade of 70% or higher on the Commission-prescribed end-of-course examination constitutes satisfactory course completion. The school shall administer the examination upon completion of the instruction, provided the student has not missed in excess of 8 hours of classroom instruction.

(b) The school must submit to the Commission the course materials and end-of-course examinations. The school must also submit a copy of the course, and access to the course, in the format in which the course will be offered to the student. Primary schools shall submit pre-license courses for evaluation every new edition. In no event may a course evaluation submission for renewal be made more than four years after ~~after~~ the original approval date. Secondary schools shall resubmit pre-license courses for evaluation prior to every second renewal. A primary school is a school that develops the course material for evaluation under its school name. A secondary school is a school that has been given authority by the primary school to submit the course material for evaluation under its school name. Secondary schools must submit, with the course evaluation, a letter from the primary school authorizing the secondary school to submit the course for evaluation under its school name. When delivered by distance education, the course and examination shall comply with the "Course Approval criteria" as follows:

1. through 2. No change.

3. Schools must demonstrate that the credit hours awarded for distance learning are appropriate to the course offered. The schools may accomplish this objective by demonstrating that students engaged in distance learning have acquired the knowledge, skills, and/or competencies that are at least equivalent to those acquired by students enrolled in classroom studies. Pre-licensure courses shall not be offered by correspondence methods, except by reason of a hardship as defined by rule.

a. through g. No change.

h. Pre-licensing courses must conform to and follow the order of the Course I and Course II syllabus. Courses must include learning objective for each session of the syllabus. The ~~course~~ school must describe the method of assessment of the student's performance periodically throughout the course of instruction.

i. through k. No change.

(c) through (d) No change.

(5) through (8) No change.

(9) No change.

(10) Use of Live Streaming Technology for Delivery of Approved In-Person Education Courses. Any other provision of this rule notwithstanding, from the effective date of this subsection {insert effective date from adoption certificate} until December 31, 2020, a provider may offer any Commission-approved prelicensure educational course, previously approved by the Commission for in-person / live delivery, through live streaming / online webinar / videoconferencing technologies. Providers may only utilize this process during the effective period of this subsection. After January 1, 2021, providers must apply, following current procedures, to continue offering an approved in-person/live course through live streaming technology. In addition, each provider delivering pre-licensure education courses must make provision for the required end-of-course examination to be delivered through electronic methods that do not require a student's physical presence.

Rulemaking Authority 475.05 FS. Law Implemented 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.08, Amended 7-16-86, 10-13-88, 5-20-90, 1-13-91, 7-20-93, Formerly 21V-3.008, Amended 12-13-94, 6-14-95, 8-2-95, 12-30-97, 9-1-99, 1-18-00, 11-6-00, 1-12-04, 11-3-15, 3-27-18, 1-17-19, ____.

61J2-3.009 Continuing Education for Active and Inactive Broker and Sales Associate Licensees.

(1)(a) All persons holding active or inactive licenses as brokers or sales associates must satisfactorily complete a minimum of 14 hours of instruction of 50 minutes each as the Commission has prescribed or approved during each license renewal period excluding the first renewal period of their current license.

(b) No change.

(c) Any school or provider requesting approval for a live distance learning course via streaming course video or any other means of video conferencing technology must submit to the DBPR at the time of course submission all course materials as well as information on the delivery method and software platform being used.

(d) through (i) No change.

(2)(a) The Commission-prescribed Core Law course totaling 3 hours of instruction of 50 minutes each will review and update licensees on Florida real estate license law, Commission rules, and agency law, and provide an

introduction to other state laws, federal laws, and taxes affecting real estate. Approval or denial of the Commission-required Core Law course will be based on the extent to which the course content covers the above-referenced subject areas. The Commission-prescribed Business Ethics and Business Practices course totaling 3 hours of instruction of 50 minutes each will cover general business ethics applicable to any business and/or real estate. 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 for re-evaluation.

(b) No change.

(3) through (8) No change.

(9) Use of Live Streaming Technology for Delivery of Approved In-Person Education Courses. Any other provision of this rule notwithstanding, from the effective date of this subsection {insert effective date from adoption certificate} until December 31, 2020, a provider may offer any Commission-approved continuing education course, previously approved by the Commission for in-person / live delivery, through live streaming / online webinar / videoconferencing technologies. Providers may only utilize this process during the effective period of this subsection. After January 1, 2021, providers must apply, following current procedures, to continue offering an approved in-person/live course through live streaming technology.

Rulemaking Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 8-24-80, 10-19-83, 9-16-84, Formerly 21V-3.09, Amended 10-13-88, 6-17-91, 12-29-91, 12-8-92, 6-28-93, Formerly 21V-3.009, Amended 2-2-94, 11-13-94, 5-13-96, 12-30-97, 10-25-98, 3-7-99, 1-18-00, 9-17-00, 1-12-04, 7-10-06, 11-3-15, 2-2-17, 9-27-17, 12-27-18, _____.

61J2-3.010 License Reactivation Education for Brokers and Sales Associates.

(1) through (7) No change.

(8) Use of Live Streaming Technology for Delivery of Approved In-Person Education Courses. Any other provision of this rule notwithstanding, from the effective date of this subsection {insert effective date from adoption certificate} until December 31, 2020, a provider may offer any Commission-approved prelicensure educational course, previously approved by the Commission for in-person / live delivery, through live streaming / online webinar / videoconferencing technologies. Providers may only utilize this process during the effective period of this subsection. After January 1, 2021, providers must apply, following current procedures, to continue offering an approved in-person/live course through live streaming technology. In addition, each provider delivering reactivation education courses must make provision for the required end-of-course examination to be delivered through electronic methods that do not require a student's physical presence.

Rulemaking Authority 475.05, 475.183(3) FS. Law Implemented 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.10, Amended 10-13-88, 6-28-93, Formerly 21V-3.010, Amended 12-30-97, 10-25-98, 1-18-00, 3-15-04, 11-8-06, 12-25-07, 8-18-08, 1-17-16, 10-26-16, _____.

61J2-3.011 Continuing Education for School Instructors.

(1) No change.

(2)(a) For all courses approved for classroom delivery, 50 minute hours means fifty minutes of classroom instruction, exclusive of any breaks, recesses, or other time not spent in instruction. Classroom hours are the hours delivered live by an instructor in a classroom, or by live streaming, or any means of video conferencing technology to students who are in attendance at permitted or approved school locations.

(b) Any school or provider requesting approval for a live distance learning course via streaming course video or any other means of video conferencing technology must submit to the DBPR at the time of course submission all course materials as well as information on the delivery method and software platform being used.

(c) through (f) No change.

(3) through (9) No change.

(10) Use of Live Streaming Technology for Delivery of Approved In-Person Education Courses. Any other provision of this rule notwithstanding, from the effective date of this subsection {insert effective date from adoption certificate} until December 31, 2020, a provider may offer any Commission-approved prelicensure educational course, previously approved by the Commission for in-person / live delivery, through live streaming / online webinar / videoconferencing technologies. Providers may only utilize this process during the effective period of this subsection. After January 1, 2021, providers must apply, following current procedures, to continue offering an

approved in-person/live course through live streaming technology. In addition, each provider must make provision for the end-of-course examination, if required, to be delivered through electronic methods that do not require a student's physical presence.

Rulemaking Authority 455.2123, 475.05, 475.182, 475.451 FS. Law Implemented 455.2123, 455.2178, 475.182, 475.451 FS. History--New 7-28-80, Amended 8-24-80, 1-3-84, Formerly 21V-3.11, Amended 7-25-90, 7-20-93, Formerly 21V-3.011, Amended 12-30-97, 1-18-00, 9-17-00, 2-4-04, 10-13-10, 12-6-12, 4-19-18, 2-11-19,_____.

61J2-3.020 Post-licensing Education for Active and Inactive Broker and Sales Associate Licensees.

(1) through (9) No change.

(10) Use of Live Streaming Technology for Delivery of Approved In-Person Education Courses. Any other provision of this rule notwithstanding, from the effective date of this subsection {insert effective date from adoption certificate} until December 31, 2020, a provider may offer any Commission-approved prelicensure educational course, previously approved by the Commission for in-person / live delivery, through live streaming / online webinar / videoconferencing technologies. Providers may only utilize this process during the effective period of this subsection. After January 1, 2021, providers must apply, following current procedures, to continue offering an approved in-person/live course through live streaming technology. In addition, each provider delivering post-licensure education courses must make provision for the required end-of-course examination to be delivered through electronic methods that do not require a student's physical presence.

Rulemaking Authority 475.05, 475.17 FS. Law Implemented 475.04, 475.17, 475.182 FS. History--New 1-1-89, Amended 1-4-90, 6-28-93, Formerly 21V-3.020, Amended 8-2-95, 12-30-97, 2-24-00, 7-23-00, 5-12-04, 1-11-11, 3-25-18,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 17, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 2, 2020

RECOMMENDATIONS
FOR LIVE STREAMING

AUGUST 2020

FROM

Andy Brown
John Greer
Jolita Brazzano
Kaplan
Linda Crawford
Florida Realtors



To: To Whom may concern/Jocelyn Pomales

From: Andrew R (Andy) Brown, co-owner The Climer School of Real Estate

Date: July 31, 2020

Re: Request for comments on 'Live Streaming-Live vs Online/Distance' Rule

In my opinion, issues such as this one that the FREC will continually be confronted with, always boil down to one question: "What is the character and integrity of the individual?"

I am referring to the licensee, (agent, instructor, broker, school owner, etc.) and in this case, the student as well. Character and integrity unfortunately, can not be measured nor tracked.

All of the mandatory Florida education requirements are littered with holes that allow anyone who wishes to take shortcuts and abuse the system.

With that being said, I am a firm believer that the Live Streaming is a 'Live' Class. It has a set schedule with a live instructor, the same as a classroom environment.

1. The pop-up attendance checks will be argued successfully one day either that the student left for a bathroom break at that moment, or the click didn't work, or they are allowed to miss up to 8 hours and they were gone for 15 minutes only.
2. I support the idea of requiring 'video' on during the live streaming class. It is the same as the new Pearson Vue at home proctoring. I think that the instructor should have to be able to see the students at any time.
3. The idea of the instructor randomly calling out names on a random basis would not work. It will be annoying to the other students and most instructors would hate doing this, and eventually through 60 hours- not do it.

None of the formats are perfect. There are many flaws in this system. Did you know that it is not against a law or rule to cheat on the class exam? I know because I turned in a student for this. I received a phone call from the DRE telling me that while it is wrong, it is not a violation, only cheating on the state exam is. Something is wrong with that picture.

Hopefully the licensed instructors do the best they can to assure required attendance. Hopefully, the students who are about to become licensed real estate agents also do the best they can to do the required right thing, even in their class.

Respectfully

Andrew R Brown, ZH1003080
The Climer School of Real Estate

Pomales, Jocelyn

From: John Greer <john@goldcoastschools.com>
Sent: Thursday, July 30, 2020 7:03 PM
To: Pomales, Jocelyn
Subject: Re: rules concerning live stream - would like your input

[NOTICE] This message comes from a system outside of DBPR. Please exercise caution when clicking on links and/or providing sensitive information. If you have concerns, please contact your Knowledge Champion or the DBPR Helpdesk.

Hi Jocelyn,

Thank you for the opportunity to respond.

First, everyone needs to remember that live pre-license and post-license courses require an end of course examination along with attendance. Online or distance ed courses require an examination, but do not require specific seat time. The key factor with live or online is that the student must still pass the end of course examination.

These courses are often compared to Accounting or Legal CE, but the exam makes them quite different. Most CPA's and attorneys that I know listen to live courses or recordings until they hear a beep and then write down a code or enter an answer. Unfortunately, this proves that they are good at listening for a beep, but in no way provides any evidence that any learning actually took place. An end of course exam at least provides an assessment of the learning.

Next, when we talk about live streaming, there are actually a couple of different varieties. There are live classes (with live students in class) that are streamed out to students at their location. There are also courses that are taught live, but the instructor is alone while teaching. Both have advantages and disadvantages. Please keep in mind that time required by an instructor to verify attendance of live streamers during class, is typically time that will not be used for instruction. In other words, an increase in attendance verification requirements, may actually lead to less instructional time. When there is a mix of students in a class and live streamers, the attention paid to the live streamers actually distracts from the students live in class. Verification of system generated attendance reports can be done by administrative personnel, which takes up no class time.

Attendance can be verified in numerous ways. Some of these include: pop up questions, verification of the system attendance report, homework style questions to be graded, and of course cameras. I would caution that the more time that is spent with an instructor verifying attendance, the less time is going to be spent on actual instruction. This may not seem like a big deal with a handful of students, but, checking id's and cameras with a large group is very time consuming, and also requires another level of equipment on the student's end, that some students just simply don't have. Calling out random names at specified intervals will simply create un-necessary distractions and interruptions of the student learning patterns. This will also require the instructor to mute/un-mute student microphones, which can create un-necessary technical issues and distractions.

I would propose that the rule be written to simply say that it is the responsibility of the instructor (or school) to verify attendance by EITHER utilizing system attendance reports, pop up polls or questions, required homework questions, or the use of a web cam. The key is that the school or instructor can choose the method that best suits their specific classes. In the end, the end of course examination will determine whether the student learned the material, or not.

If you have any further questions, or would like any expanded explanation, please let me know.

John



John Greer

Director

phone: 954-315-8200 ext 8227

direct: 954-315-8227

email: john@goldcoastschools.com

5600 Hiatus Road, Tamarac, Florida 33321



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From: jocelyn Pomales <Jocelyn.Pomales@myfloridalicense.com>

Date: Thursday, July 30, 2020 at 12:39 PM

To: jocelyn Pomales <Jocelyn.Pomales@myfloridalicense.com>

Subject: rules concerning live stream - would like your input

Good Afternoon,

I wanted to touch base with you about the rule change concerning the Live streaming provision, which we are trying to adopt into the regular rules through the end of 2020. The Rule Notice was published, and got JAPC comments back. The rules and the JAPC letter will be on the August meeting agenda, since we can't move forward until the comments are satisfactorily responded to, in writing.

The JAPC staff attorney commented on the Live streaming of "LIVE" courses, vs. "online/distance" courses. That is, the statute and current rules set up for delivery of two different types of education courses: they can be "live" or "online/distance." The statutory and rule requirements are different for the two different types, presumably because verifying attendance is different (you can see who is in the room in a live course, and you know when they get up and walk out. No idea, if they're streaming a video course at home.) Currently, live means "live, butts in seats in a room together," and "online/distance" means everything else. We have been allowing live streaming/webinars as online/distance for a while. But, they had to meet the distance approval criteria, again, to ensure the student didn't, as the attorney put it, "hit play and walk away."

The issue is, the actual rule language we wrote, doesn't say how the "live streaming" that will be OK for "live" courses ensures the students get the equivalent of a live, butts in seats in a room together experience (?=attendance verification?). The language the JAPC attorney and FREC counsel used when they had a phone call was "virtual classroom." She doesn't have any problem with doing "virtual classroom," she just thinks we need to have some criteria in place, so that "live livestreaming" is the equivalent of "virtual classroom" and "online/distance livestreaming" can be everything else, as it currently is.

It seems like, to solve the JAPC concern, the easiest thing to do would be to come up with some criteria that demonstrates the "live livestreaming" is substantially equivalent to "butts in seats in a room / virtual classroom." If we could get some language that does this, and the Board approved it, we could amend the rule and keep it moving forward, to be in place by the time the Emergency Rule expires in Oct.

Here are some suggestions from FREC counsel:

1, He just took some online CLE. At random intervals, a radio button popped up on the screen, He had to click “ok” within the 30 second window or He didn’t get credit for that segment of the class.

2, He heard the idea for the future FREC live meeting discipline attendance is to make the licensees show their ID at the beginning of the meeting, then keep their video enabled for the whole meeting, and a staff member is going to randomly check their video to see if they are actually in their chair.

3. He heard about a meeting where, I’m not clear on this, Chair either randomly stopped in-between items and the staff called out a couple of names, and the people had to enable their camera and microphone and say “here,” or the staff sent a “live chat” message to the person who had to respond within a certain amount of time. He heard about this third-hand, so he doesn’t have any real details, and it may have just been an idea someone had.

All of this is to say, there are probably a lot of ways to create criteria for “virtual classroom” equivalent livestreaming that are not too terribly burdensome, and should satisfactorily address the JAPC concern.

Please provide me any ideas you might have by closed of business on Thursday, August 6, so I can provide it timely to the Commission for review prior to the August FREC meeting.

Sincerely,



Jocelyn Pomaes

Education Coordinator

Division of Real Estate

Florida Department of Business and Professional Regulation

Phone: 407-317-7139



Email: jocelyn.pomaes@myfloridalicense.com

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Pomales, Jocelyn

From: Jolita Brazzano <jbrazzano@att.net>
Sent: Tuesday, August 04, 2020 9:48 PM
To: Pomales, Jocelyn
Subject: Re: rules concerning live stream - would like your input

[NOTICE] This message comes from a system outside of DBPR. Please exercise caution when clicking on links and/or providing sensitive information. If you have concerns, please contact your Knowledge Champion or the DBPR Helpdesk.

Thank you!

I did find your email to me later, I apologize for missing it. My question is:

Is there a rule we should be referring to in response to this? I attempted to bring this up in the FREC Emergency meeting but was dismissed. Is there a submitted section of 61J2 that addresses live streaming? I know I had submitted my recommendation but did not see what was approved.

On your email:

I believe the best approach would be to identify Education as “synchronous” and “asynchronous”.

Synchronous Education would apply to classroom and livestream Which is conducted in real time and would only require a method of checking a streaming student’s attentiveness (various times without a pattern with current subject polls, questions, or a name being called every so often- these can be left to the schools) and how to oversee a final exam (where you could use online proctoring as it would no longer be considered a Distance Learning course with the new name per 475.17(2)).

Asynchronous would defer back to the online classes that are traditionally taught using a student’s timeline and their own schedule on computers or even correspondence courses with the online exams.

I don’t know if this would help. However it may require rewording of the rule, however it was submitted.

Thank you

Jolita Brazzano, REALTOR(R)/LCAM/Instructor
Certified Distance Education Instructor, Gold Standard Instructor(GSI), At Home With Diversity, Internet Certification, Graduate Realtor Institute, Resort & Second Property Specialist, Seller Representative Specialist, Senior Real Estate Specialist, Transnational Referral Certification/ Certified Manager of Community Associations
Brazzano Real Estate & Management
Licensed in Florida
386-793-1283
[Http://www.brazzanorealestate.com](http://www.brazzanorealestate.com)

Sent from my iPhone

On Aug 4, 2020, at 11:02 AM, Pomales, Jocelyn <Jocelyn.Pomales@myfloridalicense.com> wrote:

Dear Ms. Brazzano,

I did include you in the email. It went to the att.net email. Of course you can participate.

I will be awaiting your suggestions.

Sincerely,

<image001.jpg>

Jocelyn Pomaes

Education Coordinator

Division of Real Estate

Florida Department of Business and Professional Regulation

Phone: 407-317-7139

Email: jocelyn.pomaes@myfloridalicense.com

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From: jbrazzano@att.net [mailto:jbrazzano@att.net]

Sent: Thursday, July 30, 2020 6:26 PM

To: Pomaes, Jocelyn

Subject: FW: rules concerning live stream - would like your input

[NOTICE] This message comes from a system outside of DBPR. Please exercise caution when clicking on links and/or providing sensitive information. If you have concerns, please contact your Knowledge Champion or the DBPR Helpdesk.

Hi Jocelyn,

I did not receive the email today.

Please check my email address. jbrazzano@att.net or jolita@brazzanorealestate.com;

May I participate?

Jo

Jolita Brazzano

Broker/Owner/LCAM

Brazzano Realty & Management, LLC

CDEI, AHWD, e-PRO, GRI, RSPS, SRS, SRES, TRC, CMCA

<http://www.brazzanorealestate.com>

386-793-1283

From: Karen@KarenClimer.com <Karen@KarenClimer.com>
Sent: Thursday, July 30, 2020 6:08 PM
To: jbrazzano@att.net
Subject: FW: rules concerning live stream - would like your input

From: Pomales, Jocelyn <Jocelyn.Pomales@myfloridalicense.com>
Sent: Thursday, July 30, 2020 12:39 PM
To: Pomales, Jocelyn <Jocelyn.Pomales@myfloridalicense.com>
Subject: rules concerning live stream - would like your input

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Sincerely,

<image001.jpg>

Jocelyn Pomaes

Education Coordinator

Division of Real Estate

Florida Department of Business and Professional Regulation

Phone: 407-317-7139

Email: jocelyn.pomaes@myfloridalicense.com

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Pomales, Jocelyn

From: Toby Schifsky <toby.schifsky@kaplan.com>
Sent: Thursday, August 06, 2020 5:11 PM
To: Pomales, Jocelyn
Cc: Linda Crawford; Lisa Goyette
Subject: Fwd: FW: rules concerning live stream - would like your input

[NOTICE] This message comes from a system outside of DBPR. Please exercise caution when clicking on links and/or providing sensitive information. If you have concerns, please contact your Knowledge Champion or the DBPR Helpdesk.

Jocelyn,

Please find our notes on User Authentication and Verification of Attendance for virtual classroom rule making. We hope this helps give some insight and direction.

User authentication

The most efficient way we can positively identify the student in our virtual classroom courses is the same method we use for our asynchronous education. We employ a user login credentialing system. Every student has an account that requires a unique user name and password and is tied to their uniquely identifiable information (name, address, email, phone, payment, etc). Students must successfully log into this account to access their education. This is the same method we have employed for years with asynchronous education and have had great success.

We have experienced several issues with video recording of student with picture ID. ID must be current and readable – takes time to verify. A still picture or video recording must be made of the student and ID (in the same frame). As the intent of this is to have a readable ID you must take great pains to get a clear image of the ID. This can be highly problematic and time consuming. Also, there isn't a web platform (Zoom or otherwise) that can handle several dozen video and audio feeds well. We have also found that having the video feeds up all the time is quite distracting for students and instructors alike.

Potential wording for rule making:

Schools to have a policy in place that positively identifies the student. This can include unique user login credentialing, photo ID imaging, or other publicly recognized identification applications such as Touch ID that uses the user's fingerprint.

Attendance monitoring

Virtual classroom delivery platform should be required to track login/logouts by student. Student's time logged into the class should be compiled and verified as meeting the minimum course requirements prior to completion. If the platform can not do this, it should not be used for regulated education.

As a further measure of attendance, student should be required to actively confirm a randomly timed polling question once per hour of instruction. Student should be allowed at least 90 seconds to respond to the poll. Student must confirm attendance or be notified they are being removed from the class.

In response to varied connectivity issues that are completely out of the school's and student's control. A student that has missed the polling question (regardless of reason) but has responded to private messaging from the instructor or monitor (who is assisting with attendance monitoring) within 10 minutes of missing a poll questions should be considered present.

One note on asking random people to yell out there name in the middle of a presentation is highly disruptive to the educational experience for everyone involved. We highly advise against any procedures that require this.

Potential wording for rule making:

School to have procedures in place to passively and actively monitor student attendance. Passive monitoring requires that the virtual classroom platform track student log in/ log outs. School policy should require that all students meet the required minimum log in time before successfully completing the course. Active monitoring requires that the student confirms a random polling question or an interactive activity at least once per hour of instruction and does so within 90 seconds. Schools to have a procedure in place that attempts to connect with the student before removing them from the class and allows the student no more than 10 minutes to affirm that they are attending.

Thank you for your consideration,

Toby



Toby Schifsky
Executive Director, Product Strategy - Real Estate Education

1295 Bandana Blvd. Suite #245

St. Paul, MN 55108

work: [800-373-1295](tel:800-373-1295) x84600

mobile: [612-802-7162](tel:612-802-7162)

email: toby.schifsky@kaplan.com

----- Forwarded message -----

From: **Linda Crawford** <ll.crawford@dearborn-fla.com>

Date: Thu, Jul 30, 2020 at 12:39 PM

Subject: FW: rules concerning live stream - would like your input

To: Toby Schifsky <toby.schifsky@kaplan.com>

Toby,

The Education Coordinator, Jocelyn Pomales, Division of Real Estate, sent this email requesting language concerning how to monitor student attendance when using live stream (refer to the email below). I think you are best suited to make suggestions concerning this matter. If you would like assistance with drafting language to incorporate into the rule and what language should be stricken in the education rules, I am available should you desire my assistance.

Sincerely,

Linda Crawford

From: Pomales, Jocelyn <Jocelyn.Pomales@myfloridalicense.com>

Sent: Thursday, July 30, 2020 12:39 PM

To: Pomales, Jocelyn <Jocelyn.Pomales@myfloridalicense.com>

Subject: rules concerning live stream - would like your input

Good Afternoon,

I wanted to touch base with you about the rule change concerning the Live streaming provision, which we are trying to adopt into the regular rules through the end of 2020. The Rule Notice was published, and got JAPC comments back. The rules and the JAPC letter will be on the August meeting agenda, since we can't move forward until the comments are satisfactorily responded to, in writing.

The JAPC staff attorney commented on the Live streaming of "LIVE" courses, vs. "online/distance" courses. That is, the statute and current rules set up for delivery of two different types of education courses: they can be "live" or "online/distance." The statutory and rule requirements are different for the two different

types, presumably because verifying attendance is different (you can see who is in the room in a live course, and you know when they get up and walk out. No idea, if they're streaming a video course at home.) Currently, live means "live, butts in seats in a room together," and "online/distance" means everything else. We have been allowing live streaming/webinars as online/distance for a while. But, they had to meet the distance approval criteria, again, to ensure the student didn't, as the attorney put it, "hit play and walk away."

The issue is, the actual rule language we wrote, doesn't say how the "live streaming" that will be OK for "live" courses ensures the students get the equivalent of a live, butts in seats in a room together experience (?=attendance verification?). The language the JAPC attorney and FREC counsel used when they had a phone call was "virtual classroom." She doesn't have any problem with doing "virtual classroom," she just thinks we need to have some criteria in place, so that "live livestreaming" is the equivalent of "virtual classroom" and "online/distance livestreaming" can be everything else, as it currently is.

It seems like, to solve the JAPC concern, the easiest thing to do would be to come up with some criteria that demonstrates the "live livestreaming" is substantially equivalent to "butts in seats in a room / virtual classroom." If we could get some language that does this, and the Board approved it, we could amend the rule and keep it moving forward, to be in place by the time the Emergency Rule expires in Oct.

Here are some suggestions from FREC counsel:

1, He just took some online CLE. At random intervals, a radio button popped up on the screen, He had to click "ok" within the 30 second window or He didn't get credit for that segment of the class.

2, He heard the idea for the future FREC live meeting discipline attendance is to make the licensees show their ID at the beginning of the meeting, then keep their video enabled for the whole meeting, and a staff member is going to randomly check their video to see if they are actually in their chair.

3. He heard about a meeting where, I'm not clear on this, Chair either randomly stopped in-between items and the staff called out a couple of names, and the people had to enable their camera and microphone and say "here," or the staff sent a "live chat" message to the person who had to respond within a certain amount of time. He heard about this third-hand, so he doesn't have any real details, and it may have just been an idea someone had.

All of this is to say, there are probably a lot of ways to create criteria for "virtual classroom" equivalent livestreaming that are not too terribly burdensome, and should satisfactorily address the JAPC concern.

Please provide me any ideas you might have by closed of business on Thursday, August 6, so I can provide it timely to the Commission for review prior to the August FREC meeting.

Sincerely,



Jocelyn Pomaes

Education Coordinator
Division of Real Estate

Florida Department of Business and Professional
Regulation

Phone: 407-317-7139



Email: jocelyn.pomaes@myfloridalicense.com

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Pomales, Jocelyn

From: Linda Crawford <ll.crawford@dearborn-fla.com>
Sent: Thursday, August 06, 2020 2:47 PM
To: Pomales, Jocelyn
Cc: ll.crawford@dearborn-fla.com
Subject: Rule Suggestion Concerning Live Stream

Importance: High

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Ms. Pomales:

Please share my comments and suggested rule revision (below) concerning student attendance in Live Stream courses.

Introductory comment:

There are many ways to determine whether a student is in the virtual classroom. Ideally, students are participating in the virtual classroom and they are asking the instructor questions. Instructors can encourage student participation by calling on students.

I suggest that FREC make it the school's responsibility to indicate on the course application how the school's instructor intends to monitor attendance of students taking the course via live streaming. This way the FREC doesn't dictate the method for monitoring attendance. Depending on the school's delivery method, software platform, and technology the school would indicate what method it will use to monitor attendance. The easiest course of action may be to put in rule that when students are in a virtual classroom that the instructor must take an initial "roll call" of the students who are remotely participating in the course and then periodically the instructor conducting the course must confirm that the students are "in attendance" in the virtual classroom. This type of participation would require that students in remote settings would have a camera and a microphone. This equipment would allow students to participate in the class and allow the instructor to monitor the students' attendance.

Suggested rule revision:

Section (4)(b)(10) no changes until the sentence:

After January 1, 2021, providers must submit a new course application for evaluation of all pre-license courses by live streaming to continue offering an approved in-person/live course through live streaming technology. At the time of course application, the school must include a description of the method the school will use to verify student attendance during the in-person/live stream course. The school must also describe the method of periodically assessing the student's participation throughout the course of instruction.

(Note: last sentence in proposal above is stated in similar wording in the rule 3.008 under (4)(b)3.(h), which states:
h. Pre-licensing courses must conform to and follow the order of the Course I and Course II syllabus. Courses must include learning objectives for each session of the syllabus. The school must describe the method of assessment of the student's performance periodically throughout the course of instruction.

Respectfully,

A handwritten signature in cursive script that reads "Linda".

Linda L Crawford, Author
Florida Real Estate Principles, Practices & Law
Dearborn Real Estate Education Company

Pomales, Jocelyn

From: Sharon Hoydich <sharonh@floridarealtors.org>
Sent: Friday, August 07, 2020 9:12 AM
To: Pomales, Jocelyn
Subject: RECOMMENDATIONS FOR RULES DISCUSSION ON LIVE STREAMING

Importance: High

[NOTICE] This message comes from a system outside of DBPR. Please exercise caution when clicking on links and/or providing sensitive information. If you have concerns, please contact your Knowledge Champion or the DBPR Helpdesk.

Good Morning Jocelyn;

Shown below is a compilation of the current processes local boards are following to verify attendance. This information was taken from a quick questionnaire we sent out to the top ten local boards and associations and the top instructors that are conducting the majority of the virtual live “live-streaming” programs.

In general, a disclaimer is being used by many boards that states: You will not be eligible for CE credit if you are driving, shopping, jogging, walking around outside, lying in bed etc. You must be seated in front of the computer for the entire class to get credit. If this is something that will be required by the DBPR then our legal department will help us draft something we can send out to the local boards for them to use so that it is consistent.

In addition, most boards require students to sign an attendance affidavit at the end of the class (via DocuSign), declaring they have in fact attended for the required amount of time. This is cross checked with the attendance roster.

All of the individuals that replied stated that no attendee is allowed to participate from their phone – there is no way to track attendance via phone.

None of the local boards or associations had a definitive opinion on the terminology of what to call these programs that would fall under the new delivery category. Whatever FREC thinks JAPC would approve will work for them and for us.

Feel free to share this information with FREC for them to consider and review and to then pass along to JAPC.

If you have any questions, please let me know.

Sincerely,
Sharon

RESULTS OF REQUEST FOR INFORMATION ON VIRTUAL ATTENDANCE PROTOCOL FOR DBPR

1. Raise Hand roll call for entire class. Provider staff monitor asks all of the students in the class to raise their hand at various intervals of the class (start of class, return from break(s), right before end of class). There is a button in most online platforms the student can click to raise their hand. The student turns their camera on, leaves their hand up for time frame determined by provider, while the provider staff monitor verifies attendance to prove the student was actually there and then the student can type in “here” in the private chat box back to the staff monitor. Typing in the open chat box is a distraction to the rest of the students and having students turn their cameras “on” could produce some interesting screen views. Turning cameras on for larger classes could be an issue.
2. Attendees log on at least 10 minutes prior to class and then show their ID at the beginning of the class to the provider staff monitor. An attendance roster is started. Student keeps their video enabled for the whole class experience, and then the provider staff monitor randomly checks the student videos to verify the student is actually in front of their computer attending the program. If the provider staff monitor checks the video and a student is NOT at their computer, it would be logged and noted with the provider staff monitor following up via chat to check-in.

IMPORTANT NOTE: Having the attendees leave their videos on for larger classes is VERY distracting – especially when class attendance goes up over 50 attendees. Leaving video turned on for smaller classes is doable.

3. Provide attendees with a virtual questionnaire at the end of the class, as a pop quiz. There would be a brief multiple-choice test to verify that the student comprehends the main learning objectives of the course content and therefore attended the presentation. Staff monitor pulls the participation report from the virtual platform, creates a “Microsoft Form” for that class and then emails the students meeting the initial attendance report requirements the Microsoft form quiz. Student would be required to remit the questionnaire the same day as the class.

When the student submits the Form, they can “view results” to see the questions and correct responses, and even print that page for a reference – which is a good ‘byproduct’ of this final accountability tool. This ensures that the student not only meets time requirements, but actually learns something.

4. At random intervals, the instructor provides a “password” that eventually makes up a short sentence, that the student needs to reply back via email to the provider monitor with the verification sentence for attendance verification through an end of class survey. A three- word phrase for a three-hour class, two- word phrase for a two-hour class, etc.
5. At the beginning of the program, the provider staff monitor requires all attendees to submit their first name, last name, and license number in private chat to the monitor. All student cameras are turned on. Then at random intervals, the provider staff monitor takes screenshots of the class participants. Once the class is in progress, the monitor randomly pulls members to a waiting room to ensure they are active and in class.
6. At the beginning of the program, the provider staff monitor requires all attendees to submit their first name, last name, and license number in private chat to the monitor. Then at random intervals, the provider staff monitor enables polls to ask the students questions that pertain to the material. Student doesn’t need to get answer right, but must reply. Provider staff monitor keeps track of who is answering poll questions. In order to make this work, students must activate pop-ups on their computer in order to use the polls feature on most virtual platform. Issue with this is that some students are not tech savvy enough to make this happen.

If you are wondering what the top three choices would be from our Professional Development Department perspective (my notes in italics at end), they would be:

1. Raise Hand roll call for entire class. Provider staff monitor asks all of the students in the class to raise their hand at various intervals of the class (start of class, return from break(s), right before end of class). There is a button in most online platforms the student can click to raise their hand. The student turns their camera on, leaves their hand up for time frame determined by provider, while the provider staff monitor verifies attendance to prove the student was actually there and then the student can type in "here" in the private chat box back to the staff monitor. Typing in the open chat box is a distraction to the rest of the students and having students turn their cameras "on" could produce some interesting screen views. Turning cameras on for larger classes could be an issue. *This method could be modified for larger classes.*
2. FOR SMALLER CLASSES: Attendees log on at least 10 minutes prior to class and then show their ID at the beginning of the class to the provider staff monitor. An attendance roster is started. Student keeps their video enabled for the whole class experience, and then the provider staff monitor randomly checks the student videos to verify the student is actually in front of their computer attending the program. If the provider staff monitor checks the video and a student is NOT at their computer, it would be logged and noted with the provider staff monitor following up via chat to check-in. *This method is practical for smaller classes only.*
3. At the beginning of the program, the provider staff monitor requires all attendees to submit their first name, last name, and license number in private chat to the monitor. Then at random intervals, the provider staff monitor enables polls to ask the students questions that pertain to the material. Student doesn't need to get answer right, but must reply. Provider staff monitor keeps track of who is answering poll questions. In order to make this work, students must activate pop-ups on their computer in order to use the polls feature on most virtual platform. Issue with this is that some students are not tech savvy enough to make this happen. *An info sheet on how to activate pop-ups can be provided for the students.*

Sharon Hoydich

Director of Professional Development | [FloridaRealtors®](#)

7025 Augusta National Drive, Orlando, FL 32822

phone: 407.438.1400, ext. 2418

direct: 407.587.1497

fax: 407.438.1411

email: sharonh@floridarealtors.org

visit: <http://www.floridarealtors.org>

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