

Charlie Liem, Interim Secretary

Charlie Crist, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
May 18 and 19, 2010
General Meeting
(DRAFT)**

Chair Roger Enzor called the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, Florida, on this 18th day of May, 2010.

The following Commission members were in attendance: Chair Roger Enzor, Vice-Chair Richard DeNapoli; Claude "Chip" Boring, Darla Furst, Michael Guju, Ralph McCoig, and John Ruffier. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Thomas O'Bryant, Jr., Director and Executive Director; James Harwood, Chief Attorney; Brad Koshland, Bureau Chief of Enforcement; Jennifer Blakeman, Patrick Cunningham, Robert Minarcin, Joseph Solla, Senior Attorneys; JoEllen Peacock, Education Coordinator; Jocelyn Pomaes, Regulatory Specialist III; Michael Collins, Unlicensed Activity Investigator; Lori Crawford, Regulatory Supervisor/Consultant. American Court Reporting, Inc. (407) 896-1813 provided court reporter services.

Approval of the Minutes

Commissioner McCoig moved; Vice-Chair DeNapoli seconded to approve the Minutes of the April 20 and 21, 2010, General Meeting, as written. Motion carried unanimously.

Unlicensed Activity Report

Director O'Bryant presented the Unlicensed Activity Report. Director O'Bryant addressed questions from the Commissioners.

Escrow Disbursement Orders

Attorney Joseph Solla presented 17 Escrow Disbursement Orders and 3 Orders to interplead for the Commission's consideration. Mr. Solla reported that item Q has been settled. Upon recommendation of the Legal Section, the Commission issued 16 Escrow Disbursement Orders and 3 Orders. Commissioner Guju moved to approve the Legal Section recommendation. Commissioner McCoig. The motion carried unanimously.

Recovery Fund Claim Final Order

Paul Warner v. Denny R. Hughes – DBPR Case No. 2010018090. Senior Attorney Solla presented this matter to the Commission. Neither Claimant nor Respondent was present. Mr. Solla advised that the claimant qualifies statutorily to receive payment from the recovery fund and recommended the Commission deny the request. The Commission considered the facts. Commissioner Ruffier moved to approve the order granting the claim in the amount of \$47,205.90. Vice-Chair DeNapoli seconded the motion. The motion carried unanimously.

Ronald D. Boyle v. Denny R. Hughes – DBPR Case No. 2010012032. Senior Attorney Solla presented this matter to the Commission. Neither Claimant nor Respondent was present. Mr. Solla advised that the claimant qualifies statutorily to receive payment from the recovery fund and recommended the Commission approve the request. The Commission considered the facts. Commissioner Ruffier moved to approve the order granting the claim in the amount of \$43,250.00. Vice-Chair DeNapoli seconded the motion. The motion carried unanimously.

Marshall L. Resnick v. Patricia M. Siewert – DBPR Case No. 2010005706. Senior Attorney Solla presented this matter to the Commission. Neither Claimant nor Respondent was present. Mr. Solla advised that the claimant qualifies statutorily to receive payment from the recovery fund and recommended the Commission approve the request. The Commission considered the facts. Vice-Chair DeNapoli moved to approve the order granting the claim in the amount of \$1,860.00. Commissioner McCoig seconded the motion. The motion carried unanimously.

Arthur and Dorena Castellani v. Patricia M. Siewert – DBPR Case No. 2009040409. Senior Attorney Solla presented this matter to the Commission. Neither Claimants nor Respondent was present. Mr. Solla advised that the claimant qualifies statutorily to receive payment from the recovery fund and recommended the Commission approve the request. The Commission considered the facts. Vice-Chair DeNapoli moved to approve the order granting the claim in the amount of \$2,499.00. Commissioner McCoig seconded the motion. The motion carried unanimously.

Christine Sundquist v. Bill Unsworth – DBPR Case No. 2009012179. Senior Attorney Solla presented this matter to the Commission. Neither Claimant nor Respondent was present. Mr. Solla advised that the claimant does not qualify statutorily to receive payment from the recovery fund and recommended the Commission deny the request. The Commission considered the facts. Commissioner McCoig moved to approve the order denying the claim. Commissioner Ruffier seconded the motion. The motion carried unanimously. Ms. Sundquist appeared at 10:00 a.m. and requested to address the Commission in support of granting her claim. Commissioner Guju moved to vacate the previous denial decision and continue the case until next month. Commissioner Ruffier seconded the motion. The motion carried unanimously.

DOAH Recommended Orders - Applicants

Darius Jermaine Santiago v. FREC – DOAH Case No. 09-65210

FREC Counsel Tom Barnhart presented the Recommended Order of the Administrative Law Judge. Petitioner was not present. The Commission considered the Recommended Order of the Division of Administrative Hearings recommending the Petitioner's application for licensure as a real estate sales associate be denied. Commissioner Guju moved to adopt the Findings of Fact and

Conclusions of Law and accept the Recommended Order. Commissioner Ruffier seconded the motion. The motion carried unanimously.

Edward L. Parker v. DBPR, Florida Real Estate Commission – DOAH Case No. 09-6985

FREC Counsel Tom Barnhart presented the above matter to the Commission. The Petitioner was not present. The Commission reviewed and considered the complete record, including the Recommended Order of the Administrative Law Judge, the Petitioner's Exceptions to the Recommended Order, Respondent's Response to Petitioner's Exceptions and the arguments of each party. Commissioner Ruffier moved to deny Exceptions One and Two and to adopt the Findings of Fact and Conclusions of Law and accept the Recommended Order recommending the Petitioner's application for licensure as a real broker be denied without prejudice. Commissioner McCoig seconded the motion. The motion carried unanimously.

Presentation of Resolution to Commissioner Hornsleth

Chair Enzor asked former Commissioner Poul Hornsleth to come forward to be recognized for his service as Commissioner and Chairman of the Florida Real Estate Commission. Chair Enzor presented Mr. Hornsleth with a Resolution of the Florida Real Estate Commission in appreciation of his extraordinary contributions and exemplary service as a member of the Florida Real Estate Commission beginning November 8, 2001 thru March 28, 2010 and as Chairperson from October 1, 2006 to October 31, 2007. Former Commissioner Hornsleth expressed his appreciation and stated it was his pleasure to serve.

Legal Final Order Docket

Tab P – Roman A. Veksler, BK 3007237, Case No. 2009037753 – Petitioner's Request for an Informal Hearing

Mr. Veksler was not present and represented by Steven W. Johnson, Esquire. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Minarcin represented the department and presented the case to the Commission. Vice-Chair DeNapoli moved to grant the informal hearing, seconded by Commissioner McCoig, motion carried unanimously. Mr. Johnson objected to the informal hearing. The Commission entered into discussion. Commissioner Guju moved, seconded by Commissioner McCoig; motion carried unanimously to find the Respondent guilty as charged. Commissioner Guju moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke with the provision that the Commission will revisit the case should the Respondent prevail in the underlying case on appeal in the State of New York, \$389.40 costs.

Violation: Guilty of having had a sales associate's license revoked, suspended, or otherwise acted against, by the real estate licensing agency of another state, territory, or country in violation of Section 475.25(1)(g), Florida Statutes.

Tab U – Dean D. Ribble, SL 617133, Case No. 2008066944 – Stipulation

Mr. Ribble was not present and represented by Daniel Villazon, Esquire. Chair Enzor was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Ruffier moved; seconded by Commissioner Guju to accept the Stipulation. Motion carried unanimously.

Penalty imposed: \$750.00 fine, \$751.40 costs, 12 months probation, shall attend 4 hours of Quadrennial ethics courses, 3 hours of core law and 3 hours of how to keep you broker out of court. **Violation:** Guilty of failure to immediately place with the registered employer any money, fund, deposit, check or draft entrusted to her as agent of the registered employer in violation of Rule 61J2-14.009 of the Florida Administrative Code and Section 475.25(1)(k), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Action taken: Stipulation accepted.

Tab A – Andrey Barhatkov, SL 660647, Case No. 2006007298 – Respondent’s Request for Reconsideration

Mr. Barhatkov was present and not represented counsel. No current members were recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Guju moved, seconded by Commissioner Ruffier to deny reconsideration of the Final Order filed October 22, 2009. The motion carried unanimously.

Action taken: Reconsideration denied.

Tab B – Lee Roy Hall, BK 3001125, Case No. 2005032193 – Respondent’s Request for an Extension of Time to Comply with Final Order

Mr. Hall was not present and not represented by counsel. No current members were recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Vice-Chair DeNapoli moved, seconded by Commissioner Ruffier; motion carried unanimously to grant a 90-day extension to complete the Final Order requirements.

Action Taken: Extension granted for 90 days.

Tab C – Michael Hannaway, SL 3115716, Case Nos. 2008011468 and 2008011475 – Respondent’s Request for an Extension of Time to Comply with Final Order

Mr. Hannaway was not present and not represented by counsel. No current members were recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner Guju; motion carried unanimously to amend the previous

education requirement of 15 hours of escrow classes to a 4-hour escrow management class and grant a 90-day extension to complete the Final Order requirements.

Action Taken: Extension granted for 90 days.

Tab D – Richard J. Hoeft, BK 3189552, Case No. 2008014439 – Respondent’s Request for an Extension of Time to Comply with Final Order

Mr. Hoeft was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner McCoig; motion carried unanimously to grant a 1-year extension to complete the Final Order requirements.

Action Taken: Extension granted for 1 year.

Tab E – Jean Tan Jones, BK 0694382, Case Nos. 2008000929, 2008030431 and 2010009547 – Voluntary Surrender of Licensure for Permanent Revocation

Respondent was not present and not presented by counsel. No current members were recused due to participation on the probable cause panel.

Mr. Harwood represented the department and presented the case to the Commission. Vice-Chair DeNapoli moved, seconded by Commissioner Guju to accept the Affidavit for the Voluntary Surrender of License for Permanent Revocation; motion carried unanimously.

Penalty imposed: Revoked.

Tab F –Paul E. Kohler, SL 3193252, Case No. 2008029597 – Petitioner’s Request for an Informal Hearing

Mr. Kohler was not present and not represented by counsel. Chair Enzor was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner McCoig moved, seconded by Commissioner Guju; motion carried unanimously to find the Respondent guilty as charged. Commissioner McCoig moved, seconded by Commissioner Guju; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$660.00 costs. **Violation:** Guilty of failure to maintain trust funds in the real estate brokerage escrow bank account or some other proper depository until disbursement thereof was properly authorized in violation of Section 475.25(1)(k), Florida Statutes; guilty of failure to preserve and make available to the Petitioner, all books, records, and supporting documents and failed to keep an accurate account of all trust fund transactions in violation of Rule 61J2-14.012(1), Florida Administrative Code and Section 475.5015, Florida Statutes, and therefore, in violation of Section of 475.25(1)(e), Florida Statutes; guilty of failure to immediately

deposit trust funds in a bank, savings and loan association, trust company, credit union or title company having trust powers, in an insured escrow or trust account in violation of Rule 61J2-14.010, Florida Administrative Code and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Tab G – Richard Allen Lafuze, BK 657676, Case No. 2008047753; Realty One Services, Inc., CQ 226372, Case No. 2008056647– Petitioner’s Request for an Informal Hearing

Mr. Lafuze was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Solla represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner Boring; motion carried unanimously to find the Respondents guilty as charged. Commissioner Ruffier moved, seconded by Commissioner Boring; motion carried unanimously to impose the following sanctions:

Penalty imposed: Richard Lafuze, revoke, \$603.90 costs; Realty One Services, Inc., revoke, \$564.30 costs. **Violation:** Guilty of having obstructed or hindered in any manner the enforcement of Chapter 475, Florida Statutes or the performance of any lawful duty by any person acting under the authority of Chapter 475, Florida Statutes in violation of Section 475.42(1)(i), Florida Statutes and, therefore, is in violation of Section 475.25(1)(e), Florida Statutes; guilty of failure to preserve and make available to the Petitioner, all books, records, and supporting documents and failed to keep an accurate account of all trust fund transactions in violation of Rule 61J2014.012(1), Florida Administrative Code and Section 475.5015, Florida Statutes, and, therefore, is in violation of Section 475.25(1)(e), Florida Statutes.

Tab H – Shelley Anne Metivier, SL 645704, Case No. 2007048767 – Petitioner’s Request for an Informal Hearing

Ms. Metivier was not present and not represented by counsel. Chair Enzor was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Guju moved, seconded by Commissioner Ruffier; motion carried unanimously to find the Respondent guilty as charged. Commissioner Guju moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

Penalty imposed: 6 months suspension, \$1,000.00 fine, \$594.00 costs, 6 months probation, attend two 2-day FREC meetings. **Violation:** Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes.

Tab I – Maria Lourdes Miranda, SL 3111580, Case No. 2007045928 – Petitioner’s Request for an Informal Hearing

Ms. Miranda was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner McCoig; motion carried unanimously to find the Respondent guilty as charged. Commissioner Ruffier moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$1,072.50 costs. **Violation:** Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes; guilty of failure to account or deliver to any person, including a licensee 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 demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft, abstract of title, mortgage, conveyance, lease, or other document or thing of value, including a share of a real estate commission if a civil judgment relating to the practice of the licensee's profession has been obtained against the licensee and said judgment has not been satisfied in accordance with the terms of the judgment within a reasonable time, or any secret or illegal profit, or any divisible share or portion thereof, which has come into the licensee's hands and which is not the licensee's property or which the licensee is not in law or equity entitled to retain under the circumstances, in violation of Section 475.25(1)(d)1., Florida Statutes; guilty of having collected any money in connection with any real estate brokerage transaction except in the name of the employer and with the express consent of the employer and is guilty of commencing or maintaining any action for a commission or compensation against any person except his registered employer in violation of Section 475.42(1)(d), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes; guilty of failure to immediately place with the registered employer any money, fund, deposit, check or draft entrusted to her as agent of the registered employer in violation of Rule 61J2-14.009, Florida Administrative Code and Section 475.25(1)(k), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Tab J – Teresita C. Monreal, BK 363477, Case No. 2007002193 – Petitioner's Request for an Informal Hearing

Ms. Monreal was not present and not represented by counsel. Commissioner McCoig was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Vice-Chair DeNapoli moved, seconded by Commissioner Guju; motion carried unanimously to find the Respondent guilty as charged. Vice-Chair DeNapoli moved, seconded by Commissioner Guju; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$1,369.50 costs. **Violation:** Guilty of having operated as a broker without being the holder of a valid and current license as a broker in violation of Section 475.42(1)(a), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes; guilty of having operated as a broker while licensed as a sales associate in violation of Section 475.42(1)(b), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes. guilty of failure to notify the Petitioner, in writing, of the current mailing address and any change in the current mailing address, within ten days after the change, in violation of Rule 61J2-10.038, Florida Administrative Code and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Tab K – Marcelle L. Quraishi, SL 3139796, Case No. 2009033081 – Petitioner’s Request for an Informal Hearing

Mr. Quraishi was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Solla represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Vice-Chair DeNapoli; motion carried unanimously to find the Respondent guilty as charged. Commissioner Ruffier moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$181.50 costs. **Violation:** Guilty of having operated as a broker without being the holder of a valid and current license as a broker in violation of Section 475.42(1)(a), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes; guilty of aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to Chapter 455, 475 or the rules of the Petitioner in violation of Section 455.227(1)(j), Florida Statutes; guilty of having collected any money in connection with any real estate brokerage transaction except in the name of the employer and with the express consent of the employer and is guilty of commencing or maintaining any action for a commission or compensation against any person except his registered employer in violation of Section 475.42(1)(d), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Tab L – Daniel Robert Schlueb, SL 635540, Case No. 2009032434 – Voluntary Surrender of Licensure for Permanent Revocation

Mr. Schlueb was not present and not presented by counsel. No current members were recused due to participation on the probable cause panel.

Mr. Harwood represented the department and presented the case to the Commission. Commissioner McCoig moved, seconded by Vice-Chair DeNapoli to accept the Affidavit for the Voluntary Surrender of License for Permanent Revocation; motion carried unanimously.

Penalty imposed: Revoked.

Tab M – Jerry Schmidt, SL 3021696, Case No. 2006053014 – Petitioner’s Request for an Informal Hearing

Mr. Schmidt was not present and not represented by counsel. Vice-Chair DeNapoli was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner McCoig moved, seconded by Commissioner Guju; motion carried unanimously to find the Respondent guilty as charged. Commissioner McCoig moved, seconded by Commissioner Guju; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$1,000.00, \$1,273.80 costs. **Violation:** Guilty of misrepresentation, concealment, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes; guilty of failure to maintain trust funds in the real estate brokerage escrow bank account or some other proper depository until disbursement thereof was properly authorized in violation of Section 475.25(1)(k), Florida Statutes; guilty of failure to immediately place with the registered employer any money, fund, deposit, check or draft entrusted to him as agent of the registered employer in violation of Rule 61J2-14.009 of the Florida Administrative Code and Section 475.25(1)(k), Florida Statutes and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Tab N – Heather Leigh Showalter, SL 3037558, Case No. 2008051719 – Petitioner’s Request for an Informal Hearing

Ms. Showalter was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Vice-Chair DeNapoli moved, seconded by Commissioner Boring; motion carried unanimously to find the Respondent guilty as charged. Vice-Chair DeNapoli moved, seconded by Commissioner McCoig; motion carried unanimously to impose the following sanctions:

Penalty imposed: Revoke, \$5,000.00 fine, \$1,749.00 costs. **Violation:** Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of Section 475.25(1)(b), Florida Statutes.

Tab Q –Ronald Yrigollen, SL 701853, Case No. 2008031190 – Petitioner’s Request for an Informal Hearing

Mr. Yrigollen was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commissioners granted the informal hearing and entered into discussion. Commissioner Ruffier moved, seconded by Commissioner Furst; motion carried unanimously to find the Respondent guilty as charged. Commissioner Ruffier moved, seconded by Commissioner Boring; motion carried unanimously to impose the following sanctions:

Penalty imposed: \$250.00 fine, \$402.60 costs within 6 months. **Violation:** Guilty of failure to notify the Petitioner, in writing, of the current mailing address and any change in the current mailing address, within ten days after the change, in violation of Rule 61J2-10.038, Florida Administrative Code and, therefore, in violation of Section 475.25(1)(e), Florida Statutes.

Tab R – Alex Moyer, III, BK 489123, Case No. 2008060557 – Respondent’s Request for Reconsideration

Mr. Moyer was not present and not represented counsel. Vice-Chair DeNapoli was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner Guju moved, seconded by Commissioner Ruffier to deny the request. The motion carried unanimously.

Action taken: Reconsideration denied.

Tab S – Augustine Agboro, ZH 1002455, Case No. 2008039547– Stipulation

Ms. Agboro was not present and not represented by counsel. Commissioner Ruffier was recused due to participation on the probable cause panel.

Mr. Solla represented the department and presented the case to the Commission. The Commission entered into discussion. Vice-Chair DeNapoli moved; seconded by Commissioner Boring to accept the Stipulation. Motion carried unanimously.

Penalty imposed: \$500.00 fine, \$165.00 costs, 6 months probation, attend two 2-day FREC meeting. **Violation:** Failed to comply with the requirements of Rule 61J2-3.011, Florida Administrative Code in violation of Section 475.25(1)(e), Florida Statutes.

Action taken: Stipulation accepted.

Tab T – Vincente Borelly, SL 3032868, Case No. 2008017286 – Stipulation

Mr. Borelly was not present and not represented by counsel. Commissioner Guju was recused due to participation on the probable cause panel.

Mr. Cunningham represented the department and presented the case to the Commission. The Commission entered into discussion. Commissioner McCoig moved; seconded by Vice-Chair DeNapoli to accept the Stipulation. Motion carried unanimously.

Penalty imposed: \$1,000.00 fine, \$635.25, 6 months probation, attend one 2-day FREC meeting. **Violation:** Guilty of having obstructed or hindered in any manner the enforcement of Chapter 475, Florida Statutes or the performance of any lawful duty by any person acting under the authority of Chapter 475, Florida Statutes and, therefore, is in violation of Section 475.25(1)(e), Florida Statutes.

The following case was withdrawn

Tab O – Iris Demtrias Thomas

Proposed Rule Development

61J2-24.004 – Mediation

Director O’Bryant presented this rule to encourage the Commission to review the Construction Board – Rule 61G4-22.001, Florida Administrative Code, Cosmetology Rule 61G5-30.005, Florida Administrative Code and Barber Board Rule 61G3-21.011, Florida Administrative Code relating to mediation, which offers the broadest form of mediation. Director O’Bryant asked the Commission to consider expanding the current rule allowing the division to mediate cases as a

method to reduce costs to the state. Commissioner McCoig inquired whether this process would usurp the Commission's authority or obligations to carry out Chapter 475, Florida Statutes. Director O'Bryant responded that Section 455.2235, Florida Statutes gives the Commission the authority to develop rules to mediate cases and Rule 61J2-24.004, Florida Administrative Code currently outlines the circumstances under which the division can mediate. Director O'Bryant suggested the Commission review discipline Rule 61J2-24.001, Florida Administrative Code to provide guidelines for which issues the division can mediate and if the mediation is not successful it would come before the Commission. The Commission agreed to incorporate the following violations for mediation: Rule 61J2-24.001(3)a, b, q, hh and mm, Florida Administrative Code. Director O'Bryant stated the draft language will be placed on the next available agenda for the Commission's review.

61J2-24.006 - Probation

Director O'Bryant asked the Commission to review the revised language discussed at the April meeting, and if in agreement, approve moving forward with the rule making process. The Commission agreed with the recommended changes, which was to modify the language in paragraph 2 to simply state hardship and expand 90 days to 180 days.

Legislative Update

Director O'Bryant reported that on May 14, 2010, Governor Crist signed into law HB 303 incorporating the regulation of appraisal management companies which will include many changes as of July 1, 2011, such as expanding the membership of the Florida Real Estate Appraisal Board to 9 members to incorporate 2 members to represent the appraisal management industry.

Additionally, HB 713 was enrolled and Governor Crist has until June 1, 2010, to act on this bill. This legislation will alleviate the issue of a FREC member being the holder of a current instructor's license. This bill will also address references to fingerprint cards, therefore, Director O'Bryant requested the Commission address Rule 61J2-2.027(3), Florida Administrative Code to address all references to the fingerprint card which will be noticed and placed on next month's agenda.

Director O'Bryant reported that the last provision in HB 713 which affects the Commission is the issuance of a temporary license to the spouse of an active duty member of the Armed Forces of the United States if the spouse applies to the department in the format prescribed by the department. The department will discuss how to address various issues that may affect the issuance of a temporary license for all the professions.

Review and Consideration of the Real Estate Continuing Education Courses

Director O'Bryant presented the following continuing education courses for the Commission's consideration:

1. Investment Real Estate – Renewal Course – Application No. 12785

Mr. David Collins did not appear in support of the renewal course. Commissioner Guju moved to approve the continuing education course listed above as it meets the requirements of Section

475.182, Florida Statutes; Commissioner McCoig seconded the motion. The motion passed unanimously.

2. Office Operations – New Course – Application No. 12499

Ms. Grimes did not appear in support of the new course. Commissioner Furst moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner McCoig seconded the motion. The motion carried unanimously.

3. RMP Marketing – New Course – Application No. 12500

Ms. Grimes did not appear in support of the new course. Vice-Chair DeNapoli moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner Boring seconded the motion. The motion carried unanimously.

4. Innovative Marketing Techniques – New Course – Application No. 12623

Mr. Bennett did not appear in support of the new course. Commissioner Ruffier moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner McCoig seconded the motion. The motion carried unanimously.

5. Business Planning for the Real Estate Professional/Doing the Math – New Course – Application No. 12554

Ms. Fogarty did not appear in support of the new course. Vice-Chair DeNapoli moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner Ruffier seconded the motion. The motion carried unanimously.

6. Negotiation Skills – New Course – Application No. 122446

Mr. Breen appeared in support of the new course. Commissioner Guju moved to approve the continuing education course listed above as it does meet the requirements of Section 475.182, Florida Statutes; Commissioner Boring seconded the motion. The motion carried unanimously.

7. Real Estate Technology: The Professional's Guide to Success – New Course – Application No. 12424

Mr. Giumenta did not appear in support of the new course. Commissioner Ruffier moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner McCoig seconded the motion. The motion carried unanimously.

8. Selling to Your Sphere of Influence – New Course – Application No. 12430

Mr. Giumenta did not appear in support of the new course. Commissioner Ruffier moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Commissioner Boring seconded the motion. The motion carried unanimously.

9. Today's MLS: New Paradigms, Better Results – New Course – Application No. 12432

Mr. Giumenta did not appear in support of the new course. Commissioner Guju moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Vice-Chair DeNapoli seconded the motion. The motion carried unanimously.

Consent Agenda

The Commission considered 43 applicants from the Consent Agenda; Item AH was withdrawn; Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve 35 applicants and require 16 applicants to be placed on the Summary of Applicant Agenda; motion carried unanimously.

The following applicants were approved:

Allen, William R.	Ascar, Mourad	Ballou, Ronald F.
Barreiro, George	Bien, Christopher G.	Brooker, Leland E. III
Conner, James J. Jr.	Coppola, Jennifer R.	Cyr, Louis A.
Davis, David W. Jr.	Deker, Bryan	Dixon, Kyana D.
Fernandez, Alejandro	Fox, Carolyn	Gallagher, James A.
Giles, Lucas J.	Kittleson, Kevin C.	Kuhlhoff, Tyson
Lerous, Kimberly	Leuci, Thomas A. III	Mack, Bryan C.
McDonald, Brian	O'Connor, Michelle A.	Ragusa, Gary
Stockova, Paul	Tarro, Robert Dennis II	Taylor, Ashley A.
Tesoro, Donald	Tolliver, Collie Jr.	Traylor, Aletha
Valme, Patrick	Vizzari, Carrie	Walence, Leonard
Watson, Thomas W.	Weeks, Norman L. III	Willis, Brian S.

The following applicants will be placed on the next available Summary of Applicant agenda:

Atkins, Daryl D	Brown, Kyle G.	Davis, Jacquelyn M.
Doering, Michael J.	Gargano, Ryan A.	Middleton, Darise D.
Scadlook, Steven L. Sr.		

Financial Reports

Director O'Bryant presented financial reports regarding the Operating, Education and Research Foundation and Unlicensed Activity accounts for the nine months ending March 31, 2010. Director O'Bryant provided an overview of the reports and addressed questions and comments from the Commissioners. The Chair thanked Director O'Bryant for his report.

Rules Discussion

61J2-24.001 – Disciplinary Guidelines

Mr. Barnhart, Counsel to the Florida Real Estate Commission, presented for final review, the amended draft of 61J2-24.001, Florida Administrative Code the Commission proposed in April.

Commissioner Ruffier moved to submit the rule to the Joint Administrative Procedures Committee (JAPC) as amended; seconded by Commissioner McCoig. The motion carried unanimously.

61J2-3.012 – Equivalency for Prelicensing Education

Mr. Barnhart reported that he received a letter from JAPC asking for authority for the amendment. Mr. Barnhart stated that he responded and provided JAPC with the exact cite to the statute.

The Commission received comments from the audience.

There being no further business and no objection, the Chair adjourned the meeting at approximately 5:00 p.m.

May 19, 2010

Chair Roger Enzor reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, on this 19th day of May, 2010.

Chair Roger Enzor, Vice-Chair Richard DeNapoli; Claude “Chip” Boring, Darla Furst, Michael Guju, Ralph McCoig, and John Ruffier. Tom Barnhart, Senior Assistant Attorney General, appeared as counsel for the Commission. Mr. Barnhart declared a quorum present.

Division staff present at the meeting: Thomas W. O’Bryant Jr., Director; James Harwood, Chief Attorney; Michael Collins, Unlicensed Activity Investigator, Jeannie Adkinson, Regulatory Specialist III; Jocelyn Pomales, Regulatory Specialist III; Lori Crawford, Regulatory Supervisor/Consultant; American Court Reporting, Inc. (407) 896-1813, provided court reporter services.

Review and Consideration of the Real Estate Continuing Education Courses

1. Today’s Leadership Challenges – New Course – Application No. 12739

Ms. Davis Rhea did not appear in support of the new course. Commissioner Ruffier moved to deny the continuing education course listed above as it does not meet the requirements of Section 475.182, Florida Statutes; Vice-Chair DeNapoli seconded the motion. The motion carried unanimously.

2. Understanding the Home Inspection Process – Renewal Course – Application No. 12725

Ms. Carter did not appear in support of the renewal course. Commissioner Furst recused herself from participation. Commissioner Guju moved to approve the continuing education course listed above as it does meet the requirements of Section 475.182, Florida Statutes; Vice-Chair DeNapoli seconded the motion. The motion carried unanimously.

Summary of Applicants

Director Thomas O’Bryant, Jr. presented 41 Summary of Applicants requesting to sit for the real estate examination.

Tab AN – McDonald, Michael A.; present; represented by Attorney Daniel Villazon – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab AO – McGuire, Suzanne Charity; present; represented by Attorney Daniel Villazon – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve the application for broker; motion carried unanimously.

Tab AX – Pruna, Fernando; not present; represented by Attorney Daniel Villazon – Commissioner McCoig moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab BM – Whelan, George J.; present; represented by Attorney Daniel Villazon – Commissioner McCoig moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab AI – Lilly, Michael John; present; represented by Attorney Nancy Campiglia – Commissioner Guju moved; seconded by Commissioner Ruffier to approve the application for broker; motion carried unanimously.

Tab AY – Puyanic, David Alexander; present; represented by Attorney Nancy Campiglia – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve the application for broker; motion carried unanimously.

Tab AU – Pantrigo, Nelson; present; represented by Attorney Chad Walters – Commissioner Boring moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab A – Anapolsky, Alexander, Wilbert; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab B – Armstrong, Matthew Neal; present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application for broker; motion carried unanimously.

Tab C – Barber, William John; not present – represented by Attorney Bryan Kiefer; not present – Vice-Chair DeNapoli; seconded by McCoig to continue to July. Applicant waived 90-day requirement; motion carried unanimously.

Tab D – Barlow, Tanya Lashawne; not present; Commissioner Ruffier moved; seconded by Commissioner McCoig to deny the application for sales associate; motion passed 6 to 1.

Tab E – Bayer, Trevor M.; present – Commissioner McCoig moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab F – Beharry, Dana Maria; present – Application withdrawn and waived 90-day requirement.

Tab G – Bell, John Clayton; present – Commissioner McCoig moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab BN – Williams, W. J.; present – represented by Attorney R. Edward Cooley – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve the application for instructor; motion carried unanimously.

Tab H – Bligh, Timothy J.M.; present – Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to approve the application for broker; motion carried unanimously.

Tab I – Booker, Terry Lee; not present – Commissioner McCoig moved; seconded by Vice-Chair DeNapoli to deny the application for sales associate; motion carried unanimously.

Tab J – Bridge, Maurice Oswald III; present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab K – Cabrera, Enrique Israel; present – Commissioner McCoig moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab L – Caliendo, Kim Marie; present – Commissioner Furst moved; seconded by Commissioner Guju to approve the application for broker; motion carried unanimously.

Tab M – Camejo, Adelaida; present – Commissioner Ruffier moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab N – Cesaire, Patrick; present – Commissioner Guju moved, seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab O – Clay, Scott Christopher; present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab P – Collins, Candace C.; present – Commissioner McCoig moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab Q – Crews, James Anthony; present – Commissioner McCoig moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab R – Cruz, Ruben Dario; present – Commissioner Guju moved, seconded by Vice-Chair DeNapoli to deny the application for sales associate; motion carried unanimously.

Tab S – Davies, Gary Christopher; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab T – Del Pozzo, David Michael; present – Commissioner Ruffier moved; seconded by Commissioner Guju to approve the application for sales associate; motion passed 6 to 1.

Tab U – Eastman, Stephanie Amber; present – Application withdrawn and waived 90-day requirement.

Tab V – Erwin, Melissa D.; not present – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to deny the application for sales associate; motion carried unanimously.

Tab W – Fisher, Carla Ann; present – Application withdrawn and waived 90-day requirement.

Tab X – Freeman, Jesse Daniel; present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab Z – Frey, James K.; present – Commissioner Guju moved; seconded by Commissioner Ruffier to approve the application for sales associate; motion carried unanimously.

Tab AA – Gordon, Tanasa; present – Application withdrawn and waived 90-day requirement.

Tab AB – Guttman, Michael; not present – Commissioner Guju moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab AC – Haq, Ataul; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for broker; motion carried unanimously.

Tab AD – Harris, Jonathan A. Sr.; not present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab Y – Freeman, Roy M.; present – Vice-Chair DeNapoli moved; seconded by Commissioner Ruffier to vacate the previous denial; Vice-Chair DeNapoli moved; seconded by Commissioner Furst to approve the application for sales associate; motion passed 6 to 1.

Tab AE – Herrera, Augustine; not present – Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to deny the application for sales associate; motion carried unanimously.

Tab AF – Hope, Jonathan Brian; present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for broker; motion carried unanimously.

Tab AG – Jekkel, Joseph; present – Application withdrawn and waived 90-day requirement.

Tab AH – Laisch, Tami Lynette; present – Commissioner Boring moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion passed 6 to 1.

Tab AJ – Lopez, Maria Lorena; present – Application withdrawn and waived 90-day requirement.

Tab AK – Loy, Dennis R.; Director O’Bryant stated the application is continued.

Tab AL – Malagon, Larry J.; not present – Commissioner McCoig moved; seconded by Commissioner Boring to approve the application for sales associate; motion passed 6 to 1.

Tab AM – Malone, John Curtis; not present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to deny the application for sales associate; motion carried unanimously.

Tab AP – Miraflor, Vincent Roy; present – Vice-Chair DeNapoli moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab AQ – Murray, Bradley Alston; present – Vice-Chair DeNapoli moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab AR – Nelson, Debbie Jeanne; present – Commissioner Boring moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab AS – Nemi, Said; not present – Vice-Chair DeNapoli moved; seconded by to Commissioner Guju approve the application for sales associate; motion carried unanimously.

Tab AT – Norbeck, Brandon Lynn; not present – Commissioner Ruffier moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab AV – Pettigrew, Daniel E.; present – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion passed 4 to 3.

Tab AW – Powell, Kristopher T.; present – Commissioner McCoig moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab AZ – Raudales, Jose V.; present – Application withdrawn and waived 90-day requirement.

Tab BA – Reed, David A.; present – Commissioner McCoig moved; seconded by Commissioner Guju to deny the application for sales associate; motion carried unanimously.

Tab BB – Ricardo, Joseph; present – Commissioner Ruffier moved; seconded by Commissioner Guju to approve the application for sales associate; motion passed carried unanimously.

Tab BC – Robinson, Nicholas A.; present – Vice-Chair DeNapoli moved; seconded by Commissioner Guju to approve the application for sales associate; motion carried unanimously.

Tab BD – Salickram, Howard; not present – Vice-Chair DeNapoli moved; seconded by Commissioner Boring to approve the application for sales associate; motion carried unanimously.

Tab BE – San Miguel, Denise P.A.; present – Commissioner Boring moved; seconded by Commissioner Guju to approve the application for broker; motion carried unanimously.

Tab BF – Sewell, Jason Robert; not present – Commissioner Guju moved; seconded by Commissioner McCoig to deny the application; motion carried unanimously.

Tab BG – Steen, David Harold; present – Application withdrawn and waived 90-day requirement.

Tab BH – Stegmann, Louis George; present; Commissioner McCoig moved; seconded by Vice-Chair DeNapoli to approve the application for broker; motion carried unanimously.

Tab BI – Teng, Sharlene; present – Commissioner Ruffier moved; seconded by Commissioner Furst to approve the application; motion carried unanimously.

Tab BJ – Vedrin, Michael, present – Commissioner Ruffier moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Tab BK – Volpe, Debra Ventura; not present – Commissioner Ruffier moved; seconded by Commissioner McCoig to approve the application for sales associate; motion carried unanimously.

Tab BL – Wahl, William F.; not present – Commissioner Guju moved; seconded by Commissioner Furst to approve the application for sales associate; motion carried unanimously.

Tab BO – Wood, Kara R.; present – Commissioner Guju moved; seconded by Vice-Chair DeNapoli to approve the application for sales associate; motion carried unanimously.

Commission Remarks

Chair Enzor thanked the staff for their hard work.

Adjournment

There being no further business and no objection, the Chair adjourned the meeting at approximately 2:30 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for June 22 and 23, 2010, in Orlando, Florida.

Roger Enzor, Chair
Florida Real Estate Commission

Thomas W. O’Bryant, Jr.,
Executive Director
Florida Real Estate Commission