

**STATE OF FLORIDA
FLORIDA REAL ESTATE COMMISSION**

**IN RE: PETITION FOR DECLARATORY
STATEMENT FILED BY KEVIN COUMES
ON BEHALF OF THE HYBRID AGENT
GOLD COAST.**

DS 2022-023

FINAL ORDER DENYING PETITION

This matter came before the Florida Real Estate Commission (Commission) pursuant to section 120.565, Florida Statutes on June 15, 2022, in Orlando, Florida, for consideration of the Petition for Declaratory Statement (“Petition”) regarding Rule 61J2-10.028, Florida Administrative Code, filed May 18, 2022, and assigned Number DS-2022-023. The Petition was filed by Kevin Coumes on behalf of The Hybrid Agent Gold Coast.

Notice of the Petition was published in the Florida Administrative Register on May 26, 2022 in Volume 48, Number 103. The Petitioner was NOT present and was NOT represented by counsel. Having considered the Petition and relevant statutes and rules, the Commission finds as follows.

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

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

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

4. Petitioner seeks the Commission's opinion as to whether certain "advertising slogans" may be used for Petitioner's plans to advertise a "buyer's rebate on the radio and metro bus/cargo van." Petitioner states "I will have all the terms of use on my website. The terms of use will explain all of the terms, disclosures and conditions of the rebate." None of that information is included in the petition.

5. The specific request of the Petition is: "[d]oes FREC view my description of use as legal for the public."

6. Section 120.565(2), F.S., requires that the Petition "shall state with particularity the petitioner's set of circumstances." Further, Rule 28-105.002(5), F.A.C., requires a description of how the cited rules may substantially affect Petitioner "in the petitioner's particular set of circumstances."

7. Rather than requesting a statement as to the application of a specific statute or rule to Petitioner's specific circumstances, it is obvious Petitioner is seeking legal advice on a general matter, without pleading any specific facts, details, or circumstances. Thus, the Petition must be denied. Accordingly, it is

ORDERED that the Petition for Declaratory Statement regarding Rule 61J2-10.028, F.A.C. by Kevin Coumes on behalf of The Hybrid Agent Gold Coast is DENIED.

This Order shall be effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 30 day of June, 2022.

Giuvanna Corona

For the Florida Real Estate Commission
By Giuvanna Corona,
Executive Director

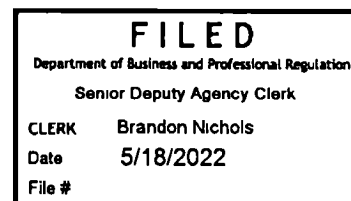
NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF THE FILING DATE OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by U.S Mail to **The Hybrid Agent Gold Coast c/o Kevin Coumes**, 13358 Machiavelli Way, Palm Beach Gardens FL 33418; by Email to **Lawrence D. Harris**, Senior Assistant Attorney General, Lawrence.Harris@myfloridalegal.com and Cassandra.Fullove@myfloridalegal.com; and by interoffice mail to the **Florida Real Estate Commission**, 400 West Robinson Street, Suite N801, Orlando, Florida 32801-1757 this 12th day of July, 2022.

Brandon M. Nichols



May 13, 2022

Petition for Declaratory Statement Before:
The Hybrid Agent Gold Coast brokered by eXp Realty, LLC.

Petitioner Company Information:
The Hybrid Agent Gold Coast brokered by eXp Realty, LLC.
13358 Machiavelli Way. Palm Beach Gardens, FL 33418
202-818-9999 cell, coumesk@gmail.com

Petitioner Qualified Representative:
Kevin Joseph Coumes
13358 Machiavelli Way. Palm Beach Gardens, FL 33418
202-818-9999 cell, coumesk@gmail.com

DS 2022-023

Fla. Admin. Code R. 61J2-10.028

Section 61J2-10.028 - Kickbacks or Rebates(1) Any real estate licensee who receives, or makes any arrangement or agreement to receive, directly or indirectly, any kickback or rebate, for the placement of, or favor in, any business transaction which forms a part of, or is incident to, any transaction(s) negotiated or handled by said licensee, is a violation of Section 475.25(1)(b) or (d), Florida Statutes, or both of said subsections of the Florida Statutes, unless prior to the time of the placement of, or favor in, said business transaction, the licensee shall have fully advised the principal if any and all affected parties in the transaction(s), which the licensee is handling, of all facts pertaining to the arrangement of kickbacks or rebates.(2) The sharing of brokerage compensation by a licensee with a party to the real estate transaction with full disclosure to all interested parties is not considered a violation of Chapter 475, Part I, Florida Statutes.

Fla. Admin. Code Ann. R. 61J2-10.028

Specific Authority 475.05 FS. Law Implemented 475.25(1)(b), (d) FS. New 1-1-80, Formerly 21V-10.28, Amended 6-28-93, Formerly 21V-10.028, Amended 12-30-97.

Description of Use: I plan on advertising a buyer's rebate on the radio and metro bus/cargo van. The advertising slogan for the rebate may read as follows:

- 1.) Buyer's Rebate
- 2.) Buyer Cash Back
- 3.) Cash Back @ Closing
- 4.) 0.5% Cash @ Closing
- 5.) 1% Rebate @ Closing
- 6.) Cash Rebate for Buyer's

I will have all of the terms of use on my website. The terms of use will explain all of the terms, disclosures, and conditions of the rebate.

For the Radio I will say "please go to The Hybrid Agent Gold Coast for details."

For the vehicle wrap I will have messaging that writes "see thehybridagentgoldcoast.com for details." Or just have the website displayed on the vehicle wrap.

Does FREC view my description of use as legal for the public?

Best Regards,



Kevin Coumes

The Hybrid Agent Gold Coast
13358 MACHIAVELLI WAY
Palm Beach Gardens, FL
33418



Petitions for Declaratory Statement
Department of Business & Professional Regulation
Division of Real Estate
400 W. Robinson ST N 801
Orlando, FL 32801

DIVISION OF REAL ESTATE
MAY 18 2022
COMPLIANCE
RECEIVED BY IV