

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

**IN RE: PETITION FOR DECLARATORY
STATEMENT BY TRUE REAL
ESTATE, INC.**

DS 2021-037

_____ /

**FINAL ORDER GRANTING PETITION FOR
DECLARATORY STATEMENT**

True Real Estate, Inc., (“TRE” or “Petitioner”) through its President and Broker, filed a Petition for Declaratory Statement (“Petition”), assigned number DS 2021-037, on June 23, 2021. Notice of receipt of the Petition was published in the Florida Administrative Register on July 9, 2021, Vol. 47, No. 132. The Commission considered the Petition, attached hereto and incorporated fully herein as Attachment A, at its meeting in Orlando, Florida on August 18, 2021.

By its Petition, TRE seeks the Commission’s determination that it may split or share commissions earned on real estate transactions in Florida with persons acting in a real estate agent capacity in the Country of Columbia, South America; that country has NO requirements that real estate agents be licensed or otherwise registered with the government. Petitioner seeks the Commission’s determination that such commission splitting or sharing would not violate section 475.25(1)(h), Florida Statutes.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission is authorized to issue this Declaratory Statement by Section 120.565, Florida Statutes. No person requested Intervention in this cause.

2. TRE is a registered Real Estate Brokerage in the state of Florida; likewise, TRE’s President and Qualifying Broker is licensed in the state of Florida. Thus, both TRE and its officers/principals are subject to Chapter 471, F.S., and thus have standing to request this

Declaratory Statement.

3. The Commission accepts the facts as those presented in the Petition. In addition, both a Commissioner and the Commission's legal counsel have independently verified that the Country of Columbia does not have a licensure paradigm for persons acting as real estate agents in that country.

4. Thus, the Commission finds, for purposes of this Declaratory Statement, that the Country of Columbia has no "licensure requirements" for persons to act in the capacity of real estate agents in that country, and thus, no person in that country could be designated as either a "licensed" or "unlicensed" individual.

5. Petitioner asserts that it may receive referrals, transactions leads, or prospects through Columbian citizens acting in the capacity of a real estate agent in that country, who ultimately end up closing real estate transactions in the State of Florida, involving Florida real property. Petitioner will earn a real estate commission from such transaction(s).

6. Petitioner proposes to split or share the commission earned on the transaction(s) in Florida with the Columbian citizen acting in the capacity of a real estate agent in Columbia.

7. Under the facts and circumstances outlined by Petitioner in the request for a Declaratory Statement, the Commission cannot determine such a proposed business relationship, including the sharing of fees with persons acting in a real estate agent capacity in the country of Columbia, would constitute a violation of Section 471.25, F.S.

8. Accordingly, the Commission GRANTS the Petition and STATES that Petitioner's proposed business arrangement with citizens of Columbia whom are acting in a real estate agent capacity would NOT violate the cited statute.

9. The Commission specifically notes, however, that it takes no position on what

evidence or documentation would be required to establish that the Columbian citizen was in fact acting in a real estate agent capacity. It is incumbent upon the Florida licensee to ensure it is legal under the laws of Columbia for such person(s) to receive such a payment, and that such person(s) are in fact acting in a real estate agent capacity.

DONE AND ORDERED this 15th day of November, 2021.



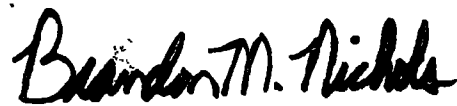
For the Florida Real Estate Commission
By Giuvanna Corona
Executive Director

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 IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES OR WITH THE COURT OF APPEAL, FIRST DISTRICT. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **True Real Estate, Inc.**, 7061 S. Tamiami Trail, Sarasota FL 34231; interoffice mail to **Division of Real Estate**, 400 W. Robinson Street, Suite N 801, Orlando, Florida 32801-1757; and by Electronic Mail to Lawrence Harris, Senior Assistant Attorney General, Lawrence.Harris@myfloridalegal.com and Cassandra.Fullove@myfloridalegal.com, all on this 2nd day of December, 2021.



FILED

Department of Business and Professional Regulation

Senior Deputy Agency Clerk

CLERK Brandon Nichols

Date 6/23/2021

File #

DS 2021-037

June 21, 2021

Petition for Declaratory Statement
by True Real Estate, Inc. for
True Real Estate

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

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

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

I. Name and Address of Petitioner

The Petitioner's name and address is True Real Estate, Inc.; 7061 S Tamiami Trl, Sarasota, FL 34231. Attention: William C. True, President and Principal Broker.

William True is the representative of True Real Estate and can be reached at (941) 918-1956 or william@truesarasota.com.

II. Specific Provision to be Considered

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

III. Reason for the Declaratory Statement

True Real Estate, Inc., a Florida corporation, intends to enter into an arrangement with a company located and operating out of Colombia.

This company is to refer real estate business to True Real Estate, Inc., for which they will receive a portion of the commission.

True Real Estate, Inc. seeks an opinion from the Commission as to whether splitting these commissions with a foreign company violates the provision of Section 475.25(1)(h), *Florida Statutes*, regarding the sharing of commissions with a foreign brokers.

IV. Relevant Facts

Colombia has no real estate licensing requirements and the Colombian company is not a licensed real estate broker in the United States. True Real Estate, Inc. is a Florida licensed brokerage engaged in the practice of real estate sales.

The Colombian company is to refer prospects interested in purchasing real estate in the State of Florida to True Real Estate. Upon closing of transaction, True Real Estate proposes to split the commissions with the Colombian company.

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

(h) Has shared a commission with, or paid a fee or other compensation to, a person not properly licensed as a broker, broker associate, or sales associate under the laws of this State, for the referral of real estate business, clients, prospects or customers, or for any one or more of the services set forth in s. 475.01(1)(a). For the purposes of this section, it is immaterial that the person to whom such payment or compensation is given made the referral of performed the service from within this state or elsewhere; *however, a licensed broker of this state may pay a referral fee or share a real estate brokerage commission with a broker licensed or registered under the laws of a foreign state so long as the foreign broker does not violate any law of this state. (emphasis supplied).*

Thus, Section 475.25(1)(h), Florida Statutes permits splitting of commissions with brokers or agents located in foreign states under appropriate circumstances. However, the statute is unclear as to whether one can split commissions with a company in a foreign nation that has no real estate licensing requirements. Petitioner seeks clarity on whether it is legal in Florida for Petitioner to share a sales commission resulting from real estate sales with a company located in Colombia.

V. Issues to be Resolved


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

May a Florida licensed real estate broker legally pay a referral fee or split a commission with company who is operating legally under the laws of the jurisdiction where such company is located (here, Colombia), and where such jurisdiction has no real estate licensing requirements?

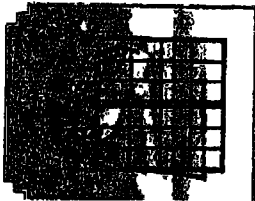
VI. No Request for Hearing

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

Respectfully submitted on this 21st day of June, 2021 by:


William C. True, President
True Real Estate, Inc.
7061 S Tamiami Trl
Sarasota, FL 34231

TRUE



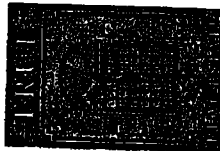
REAL ESTATE

WILLIAM C. TRUE

LICENSED REAL ESTATE BROKER
LICENSED REAL ESTATE INSTRUCTOR

7061 SOUTH TAMiami TRAIL
SARASOTA, FL 34231

CALL/TEXT: 941-918-1956
WILLIAM@TRUE SARASOTA.COM



True Real Estate
7061 South Tamiami Trail
Sarasota, FL 34231

Department of Business and Professional Regulation
Division of Real Estate
400 W Robinson St. N801
Orlando, FL 32801

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PHONE: (913) 918-1956
True Real Estate
7061 S. Tanamo Trl
Sucasa, FL 34231

PAYMENT BY ACCOUNT (if applicable)

USPS® Corporate Acct. No. Federal Agency Acct. No. or Postal Service™ Acct. No.

ORIGIN (POSTAL SERVICE USE ONLY)

<input checked="" type="checkbox"/> 1-Day		<input type="checkbox"/> 2-Day		<input type="checkbox"/> Military		<input type="checkbox"/> DPO	
PO ZIP Code	Scheduled Delivery Date (MM/DD/YY)	Postage					
34229	6-23-21	\$ 26.35					
Date Accepted (MM/DD/YY)	Scheduled Delivery Time	Insurance Fee	COD Fee				
6-22-21	<input type="checkbox"/> 10:30 AM <input type="checkbox"/> 3:00 PM <input checked="" type="checkbox"/> 12 NOON PM:00PM	\$	\$				
Time Accepted	10:30 AM Delivery Fee	Return Receipt Fee	Live Animal Transportation Fee				
9:54 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	\$	\$2.85	\$				
Special Handling/Fragile	Sunday/Holiday Premium Fee	Total Postage & Fees					
\$	\$	\$ 29.20					
Weight	Rate	Acceptance Employee Initials					
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DELIVERY (POSTAL SERVICE USE ONLY)							
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Delivery Attempt (MM/DD/YY)	Time	Employee Signature					
	<input type="checkbox"/> AM <input type="checkbox"/> PM						

DELIVERY OPTIONS (Customer Use Only)

SIGNATURE REQUIRED Note: The mailer must check the "Signature Required" box if the mailer: 1) Requires the addressee's signature; OR 2) Purchases additional insurance; OR 3) Purchases COD service; OR 4) Purchases Return Receipt service. If the box is not checked, the Postal Service will leave the item in the addressee's mail receptacle or other secure location without attempting to obtain the addressee's signature on delivery.

Delivery Options

- No Saturday Delivery (delivered next business day)
 - Sunday/Holiday Delivery Required (additional fee, where available)
 - 10:30 AM Delivery Required (additional fee, where available)
- *Refer to USPS.com® or local Post Office™ for availability.

TO: (PLEASE PRINT)

PHONE ()

DBPR
Division of Real Estate
450 W Robinson St. N 801
Orlando, FL 32801

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ly. * For Domestic shipments, the maximum weight is 70 lbs. For international shipments, the maximum weight is 4 lbs.