



**Minutes of  
THE FLORIDA REAL ESTATE COMMISSION  
December 16 and 17, 2003  
Meeting**

Chairman Carlos L. Valdes called the meeting of the Florida Real Estate Commission to order, at approximately 1:00 p.m., at the Division of Real Estate Headquarters, Orlando, Florida, on this 16<sup>th</sup> day of December, 2003.

The Chair introduced the members of the Commission and its legal counsel. The following Commission members were in attendance: Carlos L. Valdes, Chairman; Matey H. Veissi, Poul Hornsleth, Noel McDonell, Nancy B. Hogan and Bob Beals. Vice-Chairman Guy Sanchez, Jr. was absent. The Chair declared a quorum present. Daniel Villazon appeared as counsel for the Commission.

Division of Real Estate staff present at the meeting: Keith Chapman, Deputy Director; Juana C. Watkins, Chief Attorney; Kathleen Koeberich, Bureau Chief; Chris DeCosta, Sven Smith and Jason W. Holtz, Prosecutors; Matthew Fuller, Management Review Specialist; Lori Crawford, Regulatory Supervisor/Consultant; Jocelyn Pomaes, Regulatory Specialist II; Jeannie Adkinson, Regulatory Specialist II; Maxine Carter; Regulatory Specialist I. American Court Reporting Service (407-324-4290) provided court reporter services.

**Commission Business**

Chairman Valdes introduced newly appointed Commissioner Bob Beals and welcomed Mr. Beals to the Commission.

**Approval of the Minutes**

Chairman Valdes requested that the Commissioners defer approving the minutes of the November 17, 2003, Task Force meeting and the November 18 and 19, 2003, General meeting until tomorrow.

**Summary of Applicants-Bureau of Licensing**

The Commission considered the Summary of Applicants Consent Agenda, at approximately 1:10 p.m., December 16, 2003, requiring 19 applicants from the Consent Agenda to appear before it. Jeannie Adkinson, Regulatory Specialist II, presented the Summary of Applicants requesting to sit for the real estate examination. The Commission's orders on these matters are attached hereto and made a part of these minutes.

The Chair recessed the meeting at approximately 5:40 p.m., December 16, 2003.

Chairman Carlos L. Valdes reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., at the Division of Real Estate Headquarters, Orlando, Florida, on this 17<sup>th</sup> day of December 2003.

The following Commission members were in attendance: Carlos Valdes, Chairman; Matey H. Veissi, Poul Hornsleth, Noel McDonell, Nancy B. Hogan, and Bob Beals. Vice-Chairman Guy

Sanchez, Jr. was absent. The Chair declared a quorum present. Daniel Villazon appeared as counsel for the Commission.

Division of Real Estate staff present at the meeting: Keith Chapman, Deputy Director; Juana C. Watkins, Chief Attorney; JoEllen Peacock, Education Coordinator; Chris DeCosta, Sven Smith, James Harwood, Joseph Solla, Alfonso Santana and Alpheus Parsons, Prosecutors; David Guerdan and Fred Clanton, Investigator Supervisors; Matthew Fuller, Management Review Specialist; Lori Crawford, Regulatory Supervisor/Consultant; Jocelyn Pomaes, Regulatory Specialist II. American Court Reporting Service (407-324-4290) provided court reporter services.

### **FREC Business**

On behalf of the Commission and Department, Chairman Valdes presented a plaque to Commissioner Veissi in appreciation and gratitude for the service she has provided the real estate industry during her tenure as a Commissioner.

Commissioner Nancy Hogan inquired about items referenced in the minutes requiring follow-up. Chairman Valdes stated that important issues are discussed, incorporated into the minutes and then they fall to the wayside. Chairman Valdes stated that he intends to stay on top of all the issues. Deputy Director Chapman stated that he spoke with Deputy Secretary Baker last week regarding the issues discussed at last month's meeting. He reported that Deputy Secretary Baker stated that she did not have enough information to provide a complete report for December and that she would address the issues as soon as she has all the information.

Chairman Valdes requested that from this point on the agenda should list all unresolved issues the Commission discussed in previous months under "Unfinished Business". Commissioner Hornsleth moved and Commissioner Hogan seconded. The motion carried unanimously.

Commissioner McDonell offered her assistance to Vice-Chair Sanchez regarding the unlicensed activity issues with respect to contacting the state attorney's office. Chairman Valdes stated that he spoke with the Secretary and Deputy Secretary regarding some house keeping issues and the Commission will wait another 30 days for the Department's comments and/or decisions.

The Commission approved the Minutes of the November 17, 2003, Task Force meeting and the November 18 and 19, 2003, General meeting, as amended.

Upon recommendation of the Legal Section, the Commission unanimously issued 90 Escrow Disbursement Orders (EDO) and 5 orders of denial. A list of the Orders is attached to the official minutes.

### **Legal Matters**

At approximately 9:00 a.m., the Commission took up the Legal Agenda, consisting of 29 items. It heard 22 items, withdrew 6 and continued 1. The Commission's decisions on these matters are attached to the official minutes.

Commissioner Veissi addressed the issue of the question nine cases. Commissioner McDonell stated that the Commission is fairly consistent with this type of violation and added that as the Department becomes more familiar with what the Commission would accept for question nine cases, there would be less need to deliberate. Chairman Valdes also added that by bringing a FREC meeting to South Florida and the Panhandle, the licensees would be able to see exactly how the Commission disciplines violations of the real estate license law.

## **New Business**

FREC Counsel Daniel Villazon presented the Joint Administrative Procedure Committee's objections to the following rules:

Rule 61J2-3.010 – Mr. Villazon recommended changing the language to read, “Licensees which have been involuntary inactive for more than 12 months but less than 24 months may reactivate by satisfactorily completing a 14-hour Commission-prescribed continuing education course for each 2 year license period”, deleting the rest of the paragraph and completely striking paragraphs four and six. Commissioner McDonell moved to adopt the recommended changes to 61J2-3.010. Commissioner Veissi seconded. The motion carried unanimously.

Rule 61J2-3.020 – Mr. Villazon recommended that paragraphs (1)(a) and (b) be amended to read “... in subjects provided for in Section 475.17(3)(a), *Florida Statutes*”. Commissioner McDonell moved to adopt the changes to 61J2-3.020 as recommended. Commissioner Veissi seconded. The motion carried unanimously.

Mr. Villazon stated that the Department has concerns about paragraph 61J2-3.020(3)(b)5, *Florida Administrative Code*. Chief Attorney Watkins explained that the Department has concerns regarding the definition of “objective” as it relates to the method of study. Commissioner McDonell suggested that the Department conduct spot checks or request that the provider submits an affidavit and that if the inspector finds that the 45-hour course via distance learning is significantly less than 45 hours, then the providers are subject to the ramifications. Ms. Lori Rodgers shared her concerns regarding the proposed language and requested clarification from the Commission. Commissioner McDonell stated that the clarification is that the 45-hour distance learning course should take 45 hours to complete. Mr. Villazon added that the language in the statute is specific. Chief Attorney Watkins stated however that part of the problem is that the course does not take place in a classroom setting and it may be difficult to enforce. Commissioner McDonell suggested that the investigator go on-line to take the course and if it only takes them 2 hours to complete the course then they know it is not a 45-hour course and added that the Department, at its discretion should be able to investigate to ensure compliance. Commissioner McDonell further suggested that the Department provide notification to the providers that the courses are subject to inspection. Commissioner McDonell moved that the Department monitors and inspects the distance learning or classroom courses at its discretion. Commissioner Hornsleth seconded it. Chief Attorney Watkins requested what form of evidence would the Commission accept for purposes of prosecution. Chairman Valdes stated that an affidavit would be acceptable. FREC Counsel Villazon agreed.

FREC Counsel Daniel Villazon presented correspondence from Mark Robson and stated that with the Commission's permission, he would advise Mr. Robson that the Commission can not give him an opinion unless he specifically requests a declaratory statement pursuant to Chapter 120, *Florida Statutes*. Mr. Villazon added that he would further advise Mr. Robson that it is the Commission's position an individual paid on a commission basis would need to have an active real estate license.

Deputy Director Keith Chapman requested the Commission ratify the reinstatement of Keith F. Bergstrasser, Collie E. Stevens and John C. Tatum, who have met the requirements for reinstatement. The Commission ratified the actions unanimously.

Chairman Valdes requested that for future meetings the Division schedule the Legal agenda for 8:30 a.m. on Tuesdays and the applicants at 8:30 a.m. on Wednesday. Chief Attorney Watkins stated that ideally the probable cause meeting should be scheduled for Wednesday afternoon after the general meeting. Additionally, Ms. Watkins respectfully requested the Commission consider not

having a probable cause meeting in January. Chairman Valdes agreed to postpone the cases ready for probable cause to February.

Deputy Director Chapman stated that the Department has authorized him to investigate the associated costs of moving the March FREC meeting to Miami.

Commissioner Veissi requested that Deputy Director Chapman look into a rumor that property managers are proposing new legislation relating to referral fees. Commissioner Veissi stated that she also heard that apartment managers were proposing to give a course for about 2 hours in order to allow unlicensed employees to pay tenants referral fees and added that she believes that would be unlicensed activity. Deputy Director Chapman stated that he would look into these issues and hopefully have a report next month.

Chairman Valdes addressed the issue of publishing the *FREC News & Report* stating that this is a very effective means of communicating with the licensees in the real estate industry. The Chair requested that the Division publish a newsletter and mail the newsletter to the licensees.

Chairman Valdes inquired about the enforcement report, specifically regarding the zero balance relating to unlicensed activity cases in Miami, adding that Vice-Chair Sanchez has submitted a complaint regarding unlicensed activity to the Division of Real Estate. Deputy Director Chapman stated that the information indicates complaints currently under investigation, but that does not mean there are no complaints pending investigation. Chief Attorney Watkins stated that the Division has two boxes of unlicensed activity cases pending probable cause.

There being no further business and no objection, the Chair adjourned the meeting at approximately 1:20 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for January 20 and 21, 2004, at Division Headquarters in Orlando, Florida.

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Carlos L. Valdes  
Chairman

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Keith Chapman  
Division Deputy Director

Respectfully submitted:

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Lori Crawford  
Deputy Clerk