

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FLORIDA DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,
DIVISION OF REAL ESTATE,

Petitioner,

vs.

FDBPR Case N° 2007040026

NANCY SIMON,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW the Florida Department of Business and Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint against Nancy Simon hereinafter, referred to as "Respondent," and alleges the following:

ESSENTIAL ALLEGATIONS OF MATERIAL FACT

1. Petitioner is a state government licensing and regulatory agency charged with the responsibility and duty to prosecute Administrative Complaints pursuant to the laws of the State of Florida, in particular Section 20.165 and Chapters 120, 455 and 475, Florida Statutes, and the rules promulgated pursuant thereto.

2. Chapter 475.01(1)(a), Florida Statutes provides, in relevant part:

‘Broker’ means a person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases, or who advertises or holds out to the public by any oral or

printed solicitation or representation that she or he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights, or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights, or who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor; and all persons who advertise rental property information or lists. A broker renders a professional service and is a professional within the meaning of s. 95.11(4)(a).

3. "Operate" means the commission of one or more acts described in Chapter 475, Florida Statutes, as constituting or defining a broker, broker-sales associate, or sales associate, not including, however, any of the exceptions stated therein. *See* Section 475.01(3), Florida Statutes.

4. No person shall operate as a real estate broker or sales associate in Florida without being the holder of a valid and current active license therefor. *See* Section 475.42(1)(a), Florida Statutes.

5. Respondent is not now, nor was at any time material herein, registered as a real estate broker or sales associate in the State of Florida in accordance with Chapter 475 of the Florida Statutes.

6. Respondent was a licensed real estate sales associate in the state of Florida.

7. On or about September 30, 2004 Respondent's real estate license became null and void.

8. On or about May 5, 2005 Respondent on behalf of Ruth Bandera (Seller) negotiated a sales and purchase contract with Miguel A & Mirta Quiros (Buyers) for a property located at 5401 Collins Ave., Apt. #311, Miami, FL 33140 for \$349,900.00.

9. On or about July 14, 2005 Respondent received a real estate commission for \$6,234.00 for the sale of the Subject Property 1. A copy of the disbursement statement is attached hereto and incorporated herein as Administrative Complaint Exhibit 1.

10. On or about January 18, 2005 Respondent on behalf of Benjamin P. Butterfield (Seller) negotiated a sales and purchase contract with Jovan & Elvira Riotti (Buyers) for a property located at 4137 Crawford Ave., Miami, FL 33133 (Subject Property 2) for \$700,000.00. A copy of the check is attached hereto and incorporated herein as Administrative Complaint Exhibit 2.

11. On or about May 4, 2005 Respondent received a real estate commission for \$17,236.00 for the sale of the Subject Property 2. A copy of the contract is attached hereto and incorporated herein as Administrative Complaint Exhibit 3.

12. On or about November 22, 2004 Respondent on behalf of Jovan & Elvira Riotti (Seller) negotiated a sales and purchase contract with Eddo Trimino & Margarita Sidron (Buyers) for a property located at 8360 Dundee Terrace, Miami Lakes, FL 33016 for \$265,000.00 (Subject Property 3). A copy of the check is attached hereto and incorporated herein as Administrative Complaint Exhibit 4.

13. On or about March 4, 2005 Respondent received a real estate commission for \$4,674.20 for the sale of the Subject Property 3. A copy of the settlement statement is attached hereto and incorporated herein as Administrative Complaint Exhibit 5.

COUNT I

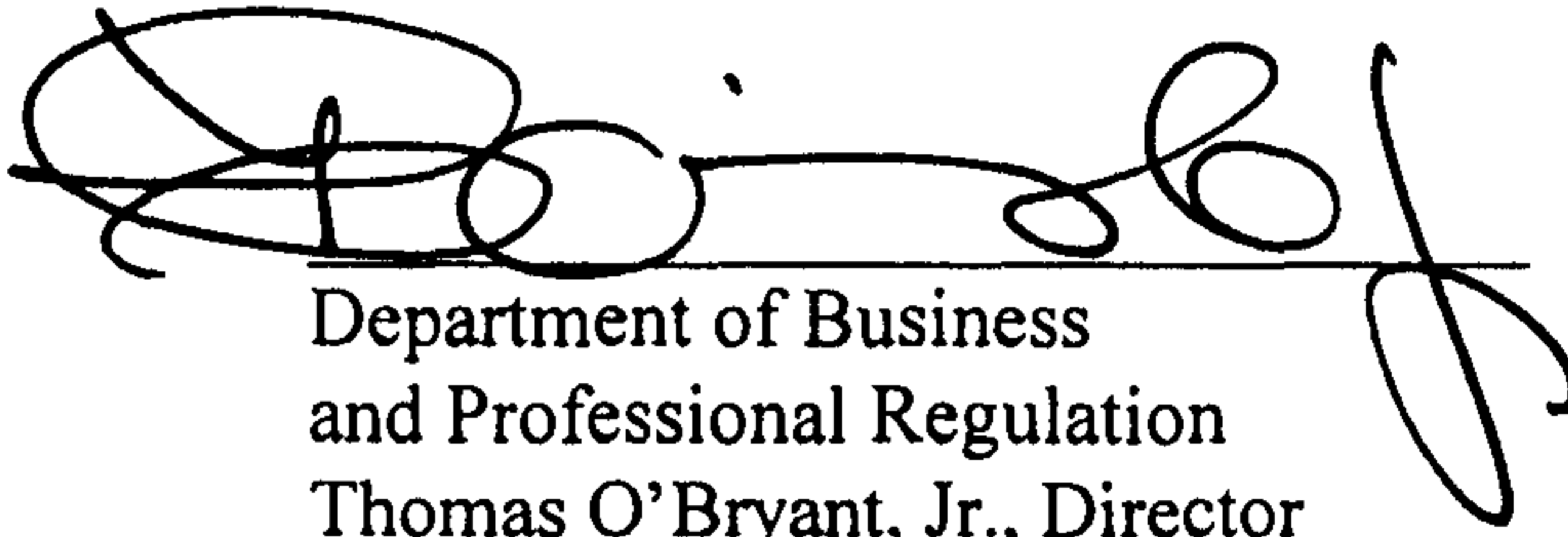
Based upon the foregoing, Respondent is guilty of having operated as a broker or sales associate without being the holder of a valid and current license as a broker or sales associate in

violation of Section 475.42(1)(a), Florida Statutes, and, therefore, in violation of Section 455.228, Florida Statutes.

WHEREFORE, Petitioner respectfully requests the Florida Real Estate Commission, or the Department of Business and Professional Regulation, as may be appropriate, to issue a Final Order as final agency action finding the Respondent(s) guilty as charged. The penalties which may be imposed for violation(s) of Chapter 475 of the Florida Statutes, depending upon the severity of the offense(s), include: revocation of the license, registration, or permit; suspension of the license, registration, or permit for a period not to exceed ten (10) years; imposition of an administrative fine of up to \$5,000 for each count or offense; imposition of investigative costs; issuance of a reprimand; imposition of probation subject to terms including, but not limited to, requiring the licensee, registrant, or permittee to complete and pass additional real estate education courses; publication; or any combination of the foregoing which may apply. See Section 475.25(1), Florida Statutes and Rule 61J2-24.001, Florida Administrative Code. The penalties which may be imposed for violation(s) of Chapter 455 of the Florida Statutes, depending upon the severity of the offense(s), include: revocation of the license, registration, or permit; suspension of the license, registration, or permit for a period not to exceed ten (10) years; imposition of an administrative fine of up to \$5,000 for each count or offense; imposition of investigative costs; issuance of a reprimand; imposition of probation subject to terms including, but not limited to, requiring the licensee, registrant, or permittee to complete and pass additional real estate education courses; publication; restriction of practice; injunctive or mandamus relief; imposition of a cease and desist order; or any combination of the

foregoing which may apply. See Section 455.227, Florida Statutes and Rule 61J2-24.001, Florida Administrative Code.

SIGNED this 18 day of January, 2008.



Department of Business
and Professional Regulation
Thomas O'Bryant, Jr., Director
Division of Real Estate

ATTORNEY FOR PETITIONER

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FILED
Department of Professional Regulation
Division of Real Estate
Kay Fle
Clerk
1/18/08

NOTICE TO RESPONDENTS

PLEASE BE ADVISED that mediation under Section 120.573 of the Florida Statutes, is not available for administrative disputes involving this type of agency action.

PLEASE BE FURTHER ADVISED that pursuant to this Administrative

Complaint you may request, within the time allowed by law, a hearing to be conducted in this matter in accordance with Sections 120.569 and 120.57 of the Florida Statutes; that you have the right, at your option and expense, to be represented by counsel or other qualified representative in this matter; and that you have the right, at your option and expense, to take testimony, to call and cross-examine witnesses, and to have subpoena and subpoena duces tecum issued on your behalf if a formal hearing is requested.

PLEASE BE FURTHER ADVISED that if you do not file an Election of Rights form or some other responsive pleading with the Petitioner within twenty-one (21) days of receipt of this Administrative Complaint, the Petitioner will file with the Department of Business and Professional Regulation a motion requesting an informal hearing and entry of an appropriate Final Order which may result in the suspension or revocation of your real estate license or registration. Please see the enclosed Explanation of Rights and Election of Rights form.