

9-4-02

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Final Order No. BPR-2003-00873 Date: 3-26-03  
FILED

Department of Business and Professional Regulation  
AGENCY CLERK

Sarah Wachman, Agency Clerk

By: Brandon M. Nichols

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

FILED  
04 JUL 15 AM 10:00  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

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

Petitioner,

AP

vs.

CASE NO. 200180872  
DOAH NO. 02-1763PL BJS-CMS

PETER H. MYERS,

Respondent.

FINAL ORDER

On November 20, 2002, pursuant to Sections 120.569 and 120.57(1), Florida Statutes, the Florida Real Estate Commission heard this case to issue a Final Order.

Administrative Law Judge Barbara J. Staros of the Division of Administrative Hearings presided over a formal hearing and issued a Recommended Order on September 4, 2002. A copy of which is attached hereto as Exhibit A and made a part hereof.

Respondent filed Exceptions to the Recommended Order. A copy of Respondent's Exceptions is attached hereto as Exhibit B and made a part hereof.

After completely reviewing the record and being otherwise fully advised, the Commission rejects Exception No. 2 and 4 of the Findings of Fact in the Recommended Order. The Commission finds that the Findings of Fact contained in Paragraphs no. 10, 11, 12 and 13 are based upon competent and substantial evidence.

The Commission adopts Exception No. 1, which addresses the sentence of paragraph no. 19 of the Conclusions of Law in the Recommended Order. The Commission finds that because Respondent placed escrow with a third party escrow holder, Respondent does not have a duty to

reconcile the account. The Commission finds that its substituted conclusion of law is more reasonable than that in Conclusions of Law contained in Paragraph 19 of the Recommended Order.

The Commission finds that Respondent violated Sections 475.42(1)(a), 475.25(1)(e) and 475.25(1)(o), Florida Statutes, and therefore, is guilty of having operated as a broker without being the holder of a valid and current license as a broker and guilty for a second time of any misconduct that warrants his suspension.

The Commission finds that the penalty detailed below is more reasonable than the recommended penalty contained in paragraph 28 of the Recommended Order.

Therefore, based upon a complete review of the record, Exceptions to the Recommended Order and Response to the Exceptions, the Commission **ORDERS** that Respondent be placed on probation for a period of one year, subject to the following terms and conditions:

1. The licensee shall notify the Division of Real Estate of any changes in employment.
2. The licensee shall not violate any provisions of Chapter 475, Florida Statutes, or Rules adopted by the Commission.
3. The licensee shall not be found guilty or convicted of any crime in any jurisdiction.
4. The licensee shall pay an administrative fine of \$1,000.00.
5. The licensee shall satisfactorily complete a thirty-hour broker management course and provide proof of completion to the Division of Real Estate.

Upon completion of all terms probation may be terminated.

This Final Order shall be effective thirty days from date of filing with the Clerk of the Department of Business and Professional Regulation. However, any party affected by this Order has the right to seek judicial review, pursuant to Section 120.68 of the Florida Statutes, and to Section 9.110 of the Florida Rules of Appellate Procedure.

Within thirty days of the filing date of this Final Order, review proceedings may be instituted by filing a Notice of Appeal with the Clerk of the Department of Business and Professional Regulation at Suite 308N, 400 West Robinson Street, Orlando, Florida 32801. At the same time, a copy of the Notice of Appeal with applicable filing fees must be filed with the appropriate District Court of Appeal.

**DONE AND ORDERED** this 20th day of November, 2002 in Orlando, Florida.



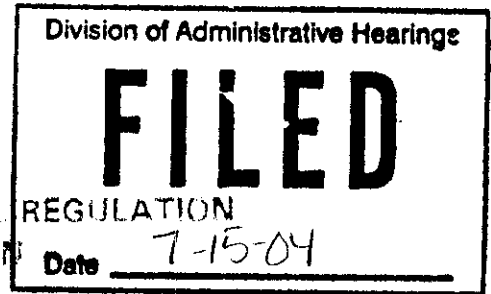
Director  
Division of Real Estate

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true copy of the foregoing was sent by U.S. Certified Mail to: Howard Hadley, Esquire, 2352 Carolton Road, Maitland, Florida 32751; the Division of Administrative Hearings, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060; and a copy provided to Christopher J. DeCosta, Esquire, DBPR, 400 W Robinson Street 308N, Orlando, FL 32802, this 26<sup>th</sup> day of March 2003.



9-4-02



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

Final Order No. BPR-2000-00521 Date: 2-15-00

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION,  
DIVISION OF REAL ESTATE

Department of Business and Professional Regulation  
AGENCY CLERK  
Sarah Wachman, Agency Clerk

By: Brandon M. Nichols

Petitioner

vs.

CASE NO. 98-81236  
99-80423

PETER H. MYERS

Respondent

02-1763PL

FINAL ORDER

On January 19, 2000, pursuant to ss.120.569 and 120.57(4), *Florida Statutes*, the Florida Real Estate Commission heard this case upon a Stipulation. After considering the Stipulation and being fully advised in the premises, the Commission **ORDERS** that the agreement be **accepted**. A copy of the Stipulation is attached hereto as Exhibit A and made a part hereof.

**DONE AND ORDERED** this 19<sup>th</sup> day of January 2000 in Orlando, Florida.

Herbert S. Fecker, Jr.  
Herbert S. Fecker, Jr., Director  
Division of Real Estate

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent by U.S. Certified Mail to: Peter H. Myers, 242-B Northshore Drive, Ormond Beach,

Florida 32176; and a copy provided to Sunia Y. Mendez Esquire, DDCR, Post Office Box 1900, Orlando, Florida 32802-1900, this 15<sup>th</sup> day of

February 2000.

Brandon M. Nichols

JRM:JS

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

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

Petitioner,

v.

PETER H. MYERS,

Respondent.

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DIVISION OF REAL ESTATE  
LEGAL DEPT.

DBPR Case No. 98-81236  
99-80423

STIPULATION

Petitioner, Florida Department of Business and Professional Regulation, Division of Real Estate ("DBPR"), and Respondent, Peter H. Myers, hereby stipulate and agree to the issuance of a Final Order by the FLORIDA REAL ESTATE COMMISSION ("FREC"), adopting and incorporating the provisions of this stipulation as final agency action in this cause.

STIPULATED FACTS AND CONCLUSIONS OF LAW

1. Respondent, Peter H. Myers, is and was, at all material times hereto, a Florida licensed real estate broker, issued license number 0313462, in accordance with Chapter 475, *Fla. Stat.* The last license issued to Respondent was as an involuntary inactive broker at 3620 General Marshall Road, Daytona Beach, Florida 32124.

2. Respondent admits that he is subject to the provisions of Chapters 455 and 475, *Fla. Stat.*, and the Rule promulgated pursuant thereto and therefore subject to the jurisdiction of DBPR and FREC.

3. Respondent admits that he has been served with the administrative complaint, copy

DBPR vs. Peter H. Myers  
Stipulation

DBPR Case No. 98-81236

attached, which charges the Respondent with having violated certain provisions of Chapters 455 and 475, Fla. Stat.

4. Respondent admits the factual allegations pertaining to Counts I, III, V, VIII, and IX of the Administrative Complaint and that such allegations constitute a violation(s) of the count(s) charged.

5. Petitioner agrees to dismiss Counts II, IV, VI, and VII of the Administrative Complaint.

6. Respondent shall not in the future violate Chapters 455 or 475 Fla. Stat., or the Rules promulgated pursuant thereto.

7. This Stipulation shall become effective immediately upon filing of the Final Order (hereinafter referred to as the "Effective Date"). All dates referenced herein shall commence to run on the Effective Date.

**STIPULATED DISPOSITION**

8. Respondent shall be fined \$1,500 and shall pay \$500 in costs. The fine and costs shall be paid by separate checks made payable to the Department of Business and Professional Regulation, Division of Real Estate, within one (1) year from the Effective Date herein.

9. Respondent shall be placed on probation for a period of one (1) year from the Effective Date herein, during which period Respondent shall provide original evidence of satisfactory completion of 60 hours of FREC approved post-licensure education, of which 30 hours must be a broker management course. The education herein is in addition to the hours required to maintain the real estate license.

DBPR vs. Peter H. Myers  
Stipulation

DHPK Case No. 98-81230

10. Respondent agrees not to hold or maintain any escrow, trust or real estate related escrow or trust funds for the one (1) year probationary period. Respondent is permitted to be a signatory on the operating and payroll accounts for his brokerage firm only. Respondent shall place all escrow, trust or real estate related funds with a title company, attorney, or other proper depository as permitted under Chapter 475, Fla. Stat., and Fla. Admin. Code r. 61J?

11. Respondent further agrees not to be a signatory on any escrow, trust or real estate related account with the exception of the operating and payroll accounts for his brokerage firm for the one (1) year probationary period.

12. Noncompliance with the stipulation terms shall result in the suspension of Respondent's licenses, registrations, certificates, and permits until compliance is made and proof of compliance is submitted to the DBPR. The suspension period shall not exceed ten (10) years. Reinstatement will be effective as of the date on which complete proof of compliance is received, and reinstatement requires submission of proper forms, which may include Form 400.3 and/or Form 400.5.

13. The action reflected in the Final Order shall be published in the FREC News and Report as follows:

Daytona Beach: Peter H. Myers, broker; fined \$1,500 and costs, 1 yr probation with special conditions, 60 hours post-licensure education including a 30-hr. bk mgmt. course during probation; failed to properly maintain funds in trust or escrow; failed to properly prepare the requisite monthly escrow statement-reconciliation.

14. It is understood between the parties that this Stipulation is subject to the approval of DBPR and of FREC, and that in the event of its disapproval, the same shall have no further force and

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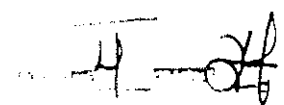
effect.

15. This Stipulation is executed by Respondent for the purpose of avoiding further administrative action by DBPR with respect to this cause. Respondent authorizes FREC to review and examine all DBPR investigative materials prior to or in conjunction with consideration of this Stipulation. Further, in the event this Stipulation is disapproved, Respondent agrees that examination of any documents or records related thereto shall not be deemed to have unfairly prejudiced DBPR, FREC or any of its members, nor shall it disqualify any of them from further participation in the resolution of this cause.

16. Respondent agrees that Petitioner may at any time subsequent to the acceptance of this Stipulation by FREC conduct further investigation, including audits of the Respondent's trust accounts. Respondent further agrees that Petitioner shall have all rights and authority as provided by law to insure compliance with Chapters 455 and 475, *Fla. Stat.*, and the Rules promulgated pursuant thereto. Respondent further agrees that this Stipulation may be considered by DBPR and FREC in connection with any future disciplinary proceeding.

17. The parties understand that this Stipulation and any final order adopting and incorporating its terms shall not preclude or deter other disciplinary proceedings by DBPR or FREC against Respondent for acts or omissions unrelated to those set forth in the Administrative Complaint herein.

18. Respondent hereby waives all notice requirements and right to seek judicial review of or to otherwise challenge or contest the validity or enforcement of the terms of this Stipulation or any resulting final order of FREC adopting and incorporating the same.



19. All parties hereto shall bear their own attorney's fees and costs incurred in connection with this cause.

20. Should Respondent withdraw from or in any way manner cancel, annul, alter, repudiate, or revoke the terms of this Stipulation prior to presentation or consideration by FREC, Respondent agrees to waive all rights they may have to seek attorney's fees and costs incurred as the result of the disciplinary proceeding up to and including the date of their withdrawal from the settlement Stipulation or the date of their attempt to alter, change, annul, repudiate, or revoke the terms of this Stipulation.

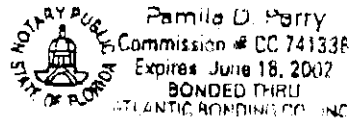
21. There has not been prior disciplinary action taken by FREC against the Respondent.

EXECUTED this 7th day of December, 1999.

Peter H. Myers  
PETER H. MYERS

**BEFORE ME** the undersigned authority, this 7th day of December 1999 personally appeared Peter H. Myers who is personally known to me or who has produced Personal ID and who swore and subscribed to the foregoing.

Pamela D. Perry  
NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: 06/18/2002



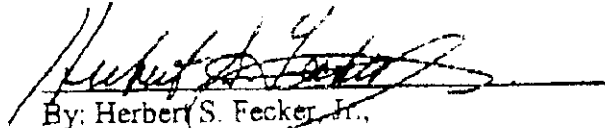
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DBPR vs. Peter H. Myers  
Stipulation

DBPR Case No. 98-61236

APPROVED this 20<sup>th</sup> day of January, 1999.

Department of Business &  
Professional Regulation



By: Herbert S. Fecker, Jr.,  
Director, Division of Real Estate

SYM/lc