

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

FILED

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DIVISION OF
ADMINISTRATIVE
HEARINGS

JEFFREY BARNES,

Petitioner,

vs.

Case No.: 07-4522

FLORIDA REAL ESTATE
COMMISSION,

Respondent.

Final Order No. BPR-2008-04676 Date: **5-28-08**

FILED

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

By: *Brendan M. Nichols*

FINAL ORDER

THIS CAUSE came before the **FLORIDA REAL ESTATE COMMISSION** ("Commission") pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on March 18, 2008, in Tallahassee, Leon County, Florida, for the purpose of considering the Administrative Law Judge Don W. Davis' Recommended Order in the above styled case. A copy of said Recommended Order is attached hereto and incorporated herein as Exhibit "A".

Petitioner was present, but was not represented by counsel. The Commission was represented by Mr. James Harwood, Esquire, Chief Attorney for the Department of Business and Professional Regulation, Division of Real Estate, Orlando, Orange County, Florida.

After a review of the complete record in this matter, including consideration of the Administrative Law Judge's Recommended Order and the arguments of each party, the Commission make the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Administrative Law Judge's findings of fact as set forth in the Exhibit "A" are approved, adopted and incorporated herein by reference.
2. There is competent, substantial evidence to support the Administrative Law Judge's findings of fact as adopted by the Commission.

CONCLUSIONS OF LAW

3. The Commission has jurisdiction of this matter pursuant to Sections 120.569 and 120.57(1), Florida Statutes, Chapter 475, Part I, Florida Statutes, and Chapter 61J2 of the Florida Administrative Code.
4. The Administrative Law Judge's conclusions of law as set forth in Exhibit "A", are approved, adopted and incorporated herein by reference.
5. There is competent, substantial evidence to support the conclusions of law in Exhibit "A", as adopted by the Commission as set forth below.

EXCEPTIONS

6. Respondent's Exception One was considered and **DENIED**. There is competent substantial evidence to support the Administrative Law Judge's findings of fact. Petitioner disclosed four convictions on his application, but he did not disclose information about a fifth crime.
7. Respondent's Exception Two was considered and **DENIED**. There is competent substantial evidence to support the Administrative Law Judge's findings of fact. The non-disclosure of the crime casts doubt on his credibility.
8. Respondent's Exception Three was considered and **DENIED**. There is competent substantial evidence to support the Administrative Law Judge's findings of fact. Credibility of a

witness, again, is a matter within the province of the administrative law judge. See Stinson v. Winn, 938 So2d 554 (Fla. 1st DCA 2006).

9. Respondent's Exception Four was considered and **DENIED**. There is competent substantial evidence to support the Administrative Law Judge's findings of fact. The witness was biased and provided no specific instances where Petitioner demonstrated honesty, morality, or ethical behavior.

10. Respondent's Exception Five was considered and **DENIED**. There is competent substantial evidence to support the Administrative Law Judge's findings of fact. The weighing of the evidence is also within the exclusive province of the administrative law judge.

11. Respondent's Exception Six was considered and **DENIED**. There is competent substantial evidence to support the Administrative Judge's findings of fact. The weight attributed to Ms. Victoria's testimony is exclusively the responsibility of the Administrative Law Judge.

12. Respondent's Exception Seven was considered and **DENIED**. There is competent substantial evidence to support the Administrative Law Judge's findings of fact. The Administrative Law Judge set forth a well reasoned rationale for why he gave little or no weight to the testimony of the witness.

13. Respondent's General Exception to Conclusions of Law was considered and **DENIED**. There is no legal ground identified by the Petitioner for this exception. Also, Petitioner does not sufficiently identify the portion of the Recommended Order to which this exception is addressed.

14. Petitioner's remaining exceptions to Conclusions of Law are rejected because they do not clearly identify the disputed portion of the Recommended Order by page number or paragraph

and do not specifically cite to the record.

DISPOSITION


15. The Administrative Law Judge's Recommendation is approved and adopted by the Commission in its entirety.

WHEREFORE, it is hereby **ORDERED** and **ADJUDGED** that:

Petitioner's application for licensure as a real estate broker is hereby **DENIED**. This Final Order shall take effect upon being filed with the Clerk of the Department of Business and Professional Regulation.

DONE and ORDERED this 21 day of May, 2008, by the Florida Real Estate Commission.

FLORIDA REAL ESTATE COMMISSION


By: Thomas O'Bryant, Jr.
Director, Division of Real Estate

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 the filing fees prescribed by law, 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 rendition of the order to be reviewed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Jeffrey C. Barnes, 133 Adler Drive, Libertyville, Illinois 60048, Don W. Davis, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and Tom Barnhart, Senior Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on this 28th day of may, 2008.

Brandon M. Nicks

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

FILED

Department of Business and Professional Regulation
DEPUTY CLERK

JEFFREY C. BARNES,

Petitioner,

CLERK

DATE

Brandon M. Nichols
2-22-2008

v.

DOAH CASE NO.: 07-4522
Lower Case # SOA 004-07-2007

FLORIDA REAL ESTATE
COMMISSION

Respondent.

RESPONSE TO "PETITIONER'S EXCEPTIONS TO DOAH RECOMMENDED ORDER"

Pursuant to Rule 28-106.217(3) of the Florida Administrative Code, the Florida Real Estate Commission (hereinafter referred to as "the Commission") files this Response to "Petitioner's Exceptions to DOAH Recommended Order" and states:

Exception #1

1. In Exception #1, the Petitioner takes exception to the following finding of fact: "During his testimony at hearing, the Petitioner revealed that he had sold 3.5 grams of cocaine to a friend in the presence of an undercover police officer, a crime not disclosed to the Commission in his licensure application." See ¶16 of the Recommended Order. According to the Petitioner, this incident was disclosed in his application and in his testimony before the Division of Administrative Hearings ("DOAH") on December 11, 2007.

2. The Petitioner's first exception is meritless. The Department of Business and Professional Regulation's licensure application form expressly asked "[h]ave you ever been convicted of a crime, found guilty, or entered a plea of guilty or nolo contendere (no contest) [], even if you received a withhold of adjudication?" See Page 12 of Respondent's Exhibit #1. In response to that question, the Petitioner disclosed four convictions in his application. See Pages 18-19 of Respondent's Exhibit #1.

3. During his testimony at the December 11, 2007 hearing, the Petitioner discussed those four convictions and volunteered information about what appeared to be a fifth crime that was not expressly listed in response to the application question. Specifically, the Petitioner revealed that he had sold 3.5 grams of cocaine to a friend in the presence of an undercover police officer.

4. If this fifth offense resulted in a conviction, then the Petitioner had an affirmative duty to explicitly disclose the details of that conviction in his licensure application materials. However, no details were offered. Therefore, the Petitioner cannot credibly assert that full disclosure was made.

Exception #2

5. In Exception #2, the Petitioner takes exception to the following finding of fact: "The Petitioner was not specific about when this crime occurred, but he believed that he was 25 or 30 years old at the time." See ¶16 of the Recommended Order. The Petitioner claims that he gave no such testimony.

6. Even if the Petitioner did not give testimony to that effect, this exception is irrelevant. As discussed above, if the Petitioner's fifth offense resulted in a conviction, then he was required to expressly disclose that crime in his application. See Pages 18 and 19 of

Respondent's Exhibit #1 Even if the crime was disclosed on his application, the Petitioner offered no details about the crime and that non-disclosure certainly casts doubt on his credibility. See generally Nutting v. Fla. Real Estate Comm'n, DOAH Case No. 05-4510 (Recommended Order issued April 18, 2006, adopted by Final Order issued July 27, 2006)(finding the "Petitioner's evasiveness and lack of candor demonstrate his failure to acknowledge and take responsibility for his past actions. Petitioner's rehabilitation will not be complete before that happens.").

Exception #3

7. In Exception #3, the Petitioner takes exception to the following Finding of Fact: "While it is uncertain whether the Petitioner's sale of cocaine actually resulted in a conviction which had to be expressly disclosed to the Commission in his licensure application, his claim that this crime was fully disclosed casts doubt on his credibility." See ¶16 of the Recommended Order.

8. This exception is also meritless. The ALJ found that the non-disclosure cast doubt on the Petitioner's credibility, and the Commission is foreclosed from second-guessing that assessment. See Stinson v. Winn, 938 So. 2d 554 (Fla. 1st DCA 2006)(noting that "[c]redibility of the witnesses is a matter that is within the province of the administrative law judge, . . .")

Exception #4

9. In his fourth exception, the Petitioner takes exception to the Findings of Fact set forth in Paragraphs 17 through 21 of the Recommended Order.

10. Specifically, the Petitioner takes issue with the weight the ALJ attributed to the testimony of Pastor Christopher Barnes, Ms. Janet Victoria, and the Reverend James Dean

Millar. In describing their testimony, the ALJ found "their statements were more in the nature of conclusions, lacking any specific detail to support their opinions. No specific instances were related where the Petitioner demonstrated honesty, morality, or ethical behavior. Also, none of the witnesses can be considered 'disinterested.'" See ¶20 of the Recommended Order.

11. This exception is also meritless because the Commission is foreclosed from second-guessing the ALJ's assessment of the witnesses' testimony. See K.J.S. v. Dep't of Children & Family Serv., 2007 WL 4561532, *2 (Fla. 1st DCA 2007)(noting that "[t]he weight or credibility of witness testimony is a factual finding made by the hearing officer."); Young v. Dep't of Educ., Div. of Vocational Rehab., 943 So. 2d 901, 902 (Fla. 1st DCA 2006)(noting "it is the responsibility of the administrative law judge to evaluate and weigh the testimony and other evidence submitted at the hearing to resolve factual conflicts, and to arrive at findings of fact."); Stinson, 938 So. 2d 554 (noting that "[c]redibility of the witnesses is a matter that is within the province of the administrative law judge, as is the weight to be given the evidence."); Aldrete v. Dep't of Health, Bd. of Med., 879 So. 2d 1244, 1246 (Fla. 1st DCA 2004)(noting "[t]he credibility of witnesses and weighing of evidence is left to the ALJ.").

Exception #5

12. In Exception #5, the Petitioner appears to be asserting that the ALJ should have made more extensive findings regarding the testimony from Reverend Millar. However, that is not a valid basis for an exception and should be rejected by the Commission. In addition, to the extent the Petitioner is taking issue with the weight attributed to Reverend Millar's testimony, that is a determination within the exclusive province of the ALJ. See Aldrete, 879 So. 2d at 1246 (noting "[t]he credibility of witnesses and weighing of evidence is left to the ALJ.").

Exception #6

13. In Exception #6, the Petitioner appears to be taking issue with the weight the ALJ attributed to the testimony of Ms. Victoria. However and as discussed above, "it is the responsibility of the administrative law judge to evaluate and weigh the testimony and other evidence submitted at the hearing to resolve factual conflicts, and to arrive at findings of fact." Young, 943 So. 2d at 902.

Exception #7

14. In Exception #7, the Petitioner appears to be taking issue with the ALJ's finding that statements by Pastor Barnes, Ms. Victoria, and Reverend Millar "were more in the nature of conclusions, lacking any specific detail to support their opinions. No specific instances were related where the Petitioner demonstrated honesty, morality, or ethical behavior." See ¶20 of the Recommended Order.

15. As discussed in detail below, the ALJ set forth a well-reasoned justification for why he chose to give little or no weight to the testimony of the Petitioner's witnesses.

Exceptions to the Recommended Order's Conclusions of Law

16. On Page 11 of his Exceptions, the Petitioner raises a general dispute over how the ALJ allocated the burden of proof. First of all, this exception is improper because the Petitioner does not sufficiently identify the portion of the Recommended Order to which this exception is addressed. In addition, the Petitioner fails to identify a legal ground for this exception. See §120.57(1)(k), Fla. Stat. (providing that "an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph,

that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record.”).¹

17. Moreover, this exception has no legal merit because the ALJ correctly assigned the burden of proof to the Petitioner. In order to avoid a determination that he did not satisfy the criteria for licensure as a real estate broker set forth in section 475.17(1)(a), Florida Statutes, and that his application for licensure should not be denied pursuant to section 475.25(1)(f), Florida Statutes, the Petitioner had to establish by a preponderance of the evidence that, “because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, . . . the interest of the public and investors will not likely be endangered” by granting his application. See Dep’t of Banking & Fin., Div. of Sec. & Investor Protection v. Osborne Stern & Co., 670 So. 2d 932, 934 (noting “[t]he general rule is that a party asserting the affirmative of an issue has the burden of presenting evidence as to that issue.”); §120.57(1)(j), Fla. Stat. (providing that “[f]indings of fact shall be based upon a preponderance of the evidence, except in penal or licensure disciplinary proceedings or except as otherwise provided by statute, and shall be based exclusively on the evidence of record and on matters officially recognized.”).

18. The Petitioner also takes exception to the Conclusion of Law in Paragraph #34 of the Recommended Order in which the ALJ determined the Petitioner failed to satisfy the second prong of the test under section 475.17(1)(a), Florida Statutes.

19. As noted above, in addition to there being a “sufficient lapse of time,” section 475.17(1)(a), Florida Statutes, requires that a petitioner also demonstrate through “subsequent good conduct and reputation, or other reason deemed sufficient, . . . the interest of the public and investors will not likely be endangered” by granting his application. See Strockbine v. Dep’t of Bus. & Prof’l Regulation, DOAH Case no. 05-1138 (Recommended Order issued June 29, 2005,

¹ All statutory references are to the 2007 version of the Florida Statutes.

adopted by Final Order issued April 27, 2006, noting how the "Petitioner argues that he is entitled to licensure due to the passage of time" but concluding "[s]ection 475.17(1)(a), Florida Statutes, however, requires both the passage of time and subsequent good conduct and reputation. Viewing both prongs of the test leads one to conclude that Petitioner has satisfied neither." (emphasis added).

20. In this exception, the Petitioner appears to be taking issue with how the ALJ weighed the evidence. However, as the finder-of-fact, the ALJ was solely responsible for weighing the evidence and determining whether the Petitioner satisfied both prongs of section 475.17(1)(a) of the Florida Statutes. Therefore, this exception is also meritless.

21. In his exceptions to the Conclusions of Law in Paragraph #s 36 and 37, the Petitioner again asserts that he disclosed to the Commission that he had sold 3.5 grams of cocaine to a friend in the presence of an undercover police officer. For the reasons discussed above, this exception is meritless and/or irrelevant.

22. The Petitioner takes exception to the weight the ALJ attributed to the testimony of his three witnesses. As discussed above, that function is within the exclusive province of the ALJ, and the Commission is prohibited from second-guessing the ALJ's assessment.

23. Moreover, in Paragraphs 38 through 42, the ALJ set forth an exceptionally well-reasoned explanation (meticulously supported by Commission precedent) for why he found the testimony unpersuasive. That analysis speaks for itself and is quoted below:

38. In order to bolster his own testimony regarding the second prong of Section 475.17(1)(a), Florida Statutes (2007), the Petitioner offered the testimony of his brother (Pastor Christopher Barnes), his wife (Ms. Janet Victoria), and a friend (Reverend James Dean Millar). However, they were not disinterested witnesses, and their testimony is insufficient to support a finding of the Petitioner's "subsequent good conduct and reputation." See generally Bettis v. Dep't of Bus. & Prof'l Regulation, Fla. Real Estate Comm'n, DOAH Case No. 82-453 (Recommended

Order issued September 20, 1982, and adopted by Final Order issued October 20, 1982, concluding "[t]he evidence petitioner adduced consisted solely of his own testimony and that of his wife. There was no testimony as to his reputation either for fair dealing or otherwise. Notwithstanding the apparently exemplary life petitioner has led since prison, this testimony, uncorroborated by a single disinterested witness, is legally insufficient to meet Petitioner's burden of proof."); Taylor v. Dep't of Bus. & Prof's Regulation, Fla. Real Estate Comm'n, DOAH Case No. 06-3036 (Recommended Order issued January 9, 2007, adopted by Final Order issued March 22, 2007, concluding that in order to satisfy the two-prong test of Section 475.17(1)(a), "Petitioner must offer more than her own statements and those of her personal friend attesting to her good conduct over the past nine years. Such statements are insufficient to meet the required burden of proof.") (emphasis added).

39. Moreover, the conclusory nature of the witnesses' testimony did not assist the Petitioner in satisfying his burden of proof. See Baumgartner v. Dep't of Bus. & Prof'l Regulation, Fla. Real Estate Comm'n, DOAH Case no. 83-0802 (Recommended Order issued August 27, 1984, recommending denial of the petitioner's licensure application and concluding "[n]o direct evidence was introduced to show that Petitioner is honest, truthful, trustworthy or of good character, not even the testimony of the Petitioner himself."); Wozniak v. Fla. Real Estate Comm'n, DOAH Case No. 88-0188, (Recommended Order issued May 10, 1988, recommending denial of the petitioner's licensure application and concluding "[t]here is little evidence of good conduct and honest reputation beyond the conclusory and uncorroborated assertions of good character by Petitioner.") (emphasis added).

40. While the Petitioner and his witnesses testified about his participation in church and charitable activities, such testimony does not satisfy the criteria of Section 475.17(1)(a), Florida Statutes (2007). See Doltie v. Dep't of Bus. & Prof'l Regulation, Div. of Real Estate, DOAH Case no. 02-0112 (Recommended Order issued May 23, 2002, finding that "Petitioner's testimony that he participates in church and civic activities does not establish that Petitioner has completed his rehabilitation. Nor are such activities, alone, sufficient to establish his honesty, trustworthiness, good character, or reputation for fair dealing.").

41. Finally, the testimony and evidence indicates that Petitioner is accomplished in the fields of information technology and real estate sales. However, information on the Petitioner's success in his chosen fields of endeavor is also insufficient to establish the Petitioner's "subsequent good conduct and reputation." See generally Denicola v. Dep't of Bus. & Prof'l Regulation, Div. of Real Estate, DOAH Case No.

03-3498 (Recommended Order issued on March 5, 2004, adopted by Final Order dated June 10, 2004, finding that "[s]ince Petitioner's release six years ago, he has started his own part-time computer web design company. Many of his customers submitted letters of recommendation on his behalf. These recommendations include stating what a fine webmaster and computer specialist he is and stating that his clients have trust and confidence in his computer skills and his business decisions and advice. His wife also has expressed confidence in him through her letter. They are starting a family. Unfortunately, only one letter mentioned moral or ethical considerations. None of the letters related specific personal experiences with Petitioner's honesty, morality, or ethical behavior over the entire course of time that the author had known Petitioner.").

42. In sum, the evidence and testimony offered by the Petitioner fails to establish by a preponderance of the evidence that "because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, . . . the interest of the public and investors will not likely be endangered" by granting his application.

24. The Petitioner also seems to be asserting that the ALJ erred by overlooking the written testimonials included in his application file. However, those written testimonials suffer from the same deficiencies the ALJ found with the witness testimony presented during the hearing.

25. For example, one of the written testimonials was from the Petitioner's brother, Pastor Barnes. As a result, that testimonial certainly did not come from a disinterested party.

26. Another written testimonial was provided by Ms. Roseanna Conlon Harris. However, within the testimonial itself, she noted that her friendship with the Petitioner "has spanned decades." Therefore, Ms. Conlon Harris also cannot be considered a disinterested party.

27. A third testimonial was provided by Mr. Bill Guttman. He has come to know the Petitioner through working on software projects and briefly described the Petitioner as a

"diligent worker." He mentioned that the Petitioner has a "great amount of integrity" but did not provide any elaboration.

28. Another testimonial was provided by Tim Waterloo, the President of Oak Enterprises. He described the Petitioner's proficiency in software development.

29. As noted by the ALJ, success in one's chosen profession is not evidence of one's "subsequent good conduct and reputation." See generally Denicola v. Dep't of Bus. & Prof'l Regulation, Div. of Real Estate, DOAH case no. 03-3498 (Recommended Order issued on March 5, 2004, adopted by Final Order issued on June 10, 2004, finding that "[s]ince Petitioner's release six years ago, he has started his own part-time computer web design company. Many of his customers submitted letters of recommendation on his behalf. These recommendations include stating what a fine webmaster and computer specialist he is and stating that his clients have trust and confidence in his computer skills and his business decisions and advice. His wife also has expressed confidence in him through her letter. They are starting a family. Unfortunately, only one letter mentioned moral or ethical considerations. None of the letters related specific personal experiences with Petitioner's honesty, morality, or ethical behavior over the entire course of time that the author had known Petitioner.").

30. Moreover, the testimonials from Mr. Guttman and Mr. Waterloo failed to set forth any specific instances in which the Petitioner demonstrated honesty, morality, or ethical behavior. See Baumgartner v. Dep't of Bus. & Prof'l Regulation, Fla. Real Estate Comm'n, DOAH case no. 83-0802, 1984 Fla. Div. Adm. Hear., LEXIS 4702, *5 (recommending denial of the petitioner's licensure application and concluding "[n]o direct evidence was introduced to show that Petitioner is honest, truthful, trustworthy or of good character, not even the testimony of the Petitioner himself."); Wozniak v. Fla. Real Estate Comm'n, case no. 88-0188, 1988 Fla.

Div. Adm. Hear. LEXIS 4256, *9 (recommending denial of the petitioner's licensure application and concluding "[t]here is little evidence of good conduct and honest reputation beyond the conclusory and uncorroborated assertions of good character by Petitioner."); Denicola, DOAH case no. 03-3498 (noting how only one letter of recommendation "mentioned moral or ethical considerations. None of the letters related specific personal experiences with Petitioner's honesty, morality, or ethical behavior over the entire course of time that the author had known Petitioner.") (emphasis added).

31. In his exceptions to the Conclusions of Law in Paragraph #s 40, 41 and 42, the Petitioner again takes issue with how the ALJ weighed the evidence. As discussed above, the ALJ was solely responsible for weighing the evidence, and the Commission is precluded from second-guessing his assessment. As also discussed above, the ALJ meticulously explained why the Petitioner's testimony and evidence were insufficient to satisfy the second prong of section 475.17(1)(a), Florida Statutes.

Conclusion

In sum, the Petitioner's Exceptions primarily take issue with: (1) how the ALJ allocated the burden of proof; and (2) the weight the ALJ attributed to the Petitioner's evidence. However and as explained above, it is well-established that the Petitioner had the burden of establishing by a preponderance of the evidence that, "because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, . . . the interest of the public and investors will not likely be endangered" by granting his application. See §475.17(1)(a), Fla. Stat. The ALJ correctly allocated the burden of proof to the Petitioner, weighed the evidence, and determined the Petitioner had failed to prove his case by a preponderance of the evidence. In his Exceptions, the Petitioner is essentially asking the Commission to re-weigh the evidence. However, the

Commission is foreclosed from doing so. See Heifetz v. Dep't of Bus. & Prof'l Regulation, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985)(holding an "agency is not authorized to weigh the evidence presented, judge credibility of witnesses, or otherwise interpret the evidence to fit its desired ultimate conclusion.")(emphasis added). Accordingly, the Commission must accept the ALJ's recommendation and deny the Petitioner's application.

Respectfully submitted on this the 22nd day of February 2008.

BILL MCCOLLUM
ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I CERTIFY that a copy hereof has been furnished by U.S. Mail to Jeffrey C. Barnes, 133. Adler Drive, Libertyville, Illinois 60048 on this the 22nd day of February 2008. A copy has also been furnished via electronic mail to Mr. Barnes' e-mail address (realpropertyproCTO@sbcglobal.net) on this the 22nd day of February 2008.

Garnett W. Chisenhall

Garnett W. Chisenhall

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FILED

JEFFREY C. BARNES,

Petitioner,

Department of Business & Professional Regulation
FLORIDA REAL ESTATE COMMISSION

SIGNED Lori L. Crawford

DATE 2-14-08
CASE NO.: 07-4522

v.

FLORIDA REAL ESTATE COMMISSION

Respondent.

PETITIONER'S EXCEPTIONS TO DOAH RECOMMENDED ORDER

NOTICES

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Evidentiary Exhibits on file with DOAH and FREC:

- 1) Respondent's Composite Exhibit 1, herein referred to as exhibit RC-1. It is comprised of 2 tabs. The first tab is Petitioner's application file, as maintained by FREC. The 2nd tab is FS 475, part 1. Admitted into evidence at hearing Dec 11, 2007.
- 2) The certified transcript of the DOAH Hearing on Dec 11, 2007, entered into docket on Dec. 19th, herein called exhibit T1.
- 3) The petitioner entered the audio CD (provided by respondent) from the FREC July 18th meeting into evidence as Petitioners Exhibit 1, herein called PE-1.
- 4) The Petitioner's Proposed Recommended Order, herein called P-PRO.

Exceptions to Recommended Order Findings of Fact

Exception 1: Page 6, paragraph 16, sentence 1: The RO contradicts both written and oral testimony by asserting a sale of 3.5 grams cocaine was a crime not disclosed to the commission.

FACT 1.1: This crime was first disclosed in Petitioner's application in a Certified Statement of Conviction / Disposition, (the legal proof of conviction in the State of Illinois), sworn to and sealed by the Clerk of the Circuit Court of Cook County Illinois, for case number 86C33035801. This is shown on [Respondents Composite Exhibit 1] RC-1-Tab1-page 28 and duplicated on page 32.

FACT 1.2: This crime was *again* disclosed in Petitioner's testimony on T1-page 56, line 19 through T1-page 57 line 6; *and again* on T1-page 62 line 16 through page 63 line 22.

FACT 1.3: Disclosure of petitioner's conviction(s), in the form of Certified Statements of Conviction / Disposition, was clearly pointed out several times in petitioner testimonies on T1-page 54-lines 4-10, T1-page 62-lines19-20 and T1-page 63, lines 1-6. Petitioner also dated the arrest for the 3.5 gram sale in testimony, on T1-page 63 lines 19-22, as being in February or March "of that same year", meaning 1986, and confirmed in P-PRO as being March of 1986.

FACT 1.4: Petitioner testimony, at T1-page 64, lines 1 through 10, identified this conviction as being on a concluding page of one of the four convictions, which are on pages 26

through 35 of exhibit RC-1-tab1. It seems from the transcript that Petitioner demonstrated some confusion about which case was which: that is understandable when it was later deduced he encountered the unexpected and confusing duplication of 3 out of the 4 convictions in RC-1.tab1, pages 26 through 35. But petitioner was adamant in testimony, T1-page 64, lines 1 through 10. There was no uncertainty that the conviction for the sale of 3.5 grams is one of the four convictions. These facts were not rebutted in Respondent's cross examination, nor were they rebutted in the Respondent's PRO. Nor were these facts rebutted with Respondent attorney's post-hearing investigation into the FDLE [or some entity's] background check obtained by FREC as a matter of course in processing applications, a document conspicuously absent from the application file presented by Respondent as exhibit RC-1.

FACT 1.5: Clarification as to specific case number was made to the court in Petitioners PRO findings of fact on P-PRO pages 14 and 15, again in P-PRO in a section titled **POST TRIAL [hearing] DISCUSSION AND ACTIVITY** pages 8 through 13. If there were any doubt as to the validity of that clarification, it was the duty of the court, pursuant to rules **28-106.211** "**Conduct of Proceedings**. The presiding officer before whom a case is pending may issue any orders necessary to **effectuate discovery**, to prevent delay, and to **promote the just**, speedy, and inexpensive **determination of all aspects of the case**" (emphasis added) to request post-trial memoranda ("proofs" as it were) pursuant to FL Revised Rules 28-106.215 and pursuant to DOAH document "**Representing Yourself Before the [DOAH]**" page 5, paragraph 1, which explains "In some cases, the judge may ask for or permit any of the parties to submit additional documents after the hearing." This DOAH document was given to Petitioner as an orientation guide to the DOAH hearing rules and processes.

Exception 2: Page 6, paragraph 16, sentence 2: The RO claims petitioner was not specific about when this crime occurred¹, but “he believed that he was 25 or 30 years old at the time². “

FACT 2-1: ¹Petitioner was very specific, at T1-page 62, lines 16 through 23, that this sale of 3.5 grams occurred in November of 1985, then later testified at T1-page 63 lines 19-22, he was arrested for this sale [with additional charge(s) for possessions of cannabis and cocaine at time of arrest: disclosed in case 86C33035901] as being in February or March “of that same year”, meaning 1986, later determined exactly March 1986.

FACT 2-2: ²There was no testimony that “he believed he was 25 or 30 years old at the time.”

Exception 3: Page 6, paragraph 16, sentence 3: The RO goes on to cast false doubt about the certainty of whether or not the [3.5 gram] sale of cocaine “actually resulted in a conviction which had to be expressly disclosed...his claim that this crime was fully disclosed casts doubt on his credibility.”

FACT 3.1: The above SEVEN FACTS (1.1 through 2.2) make it abundantly clear that full disclosure of petitioner’s convictions had been made.

FACT 3.2: Disclosure made per #1) the application instructions at bottom of exhibit RC-1-tab1-page 12, to wit: “please provide full details of any criminal conviction (emphasis added) ... including the nature of any charges, dates, outcomes, sentences, and/or conditions imposed”, and #2) provided this disclosure data on the DBPR provided Application form on page RC-1.tab1-page 18. and 19.

FACT 3.3: With an arrest date of “Feb 1986 approx” on the Application it is clear petitioner was uncertain about exact Month and Year of arrest at time of Application [9 months later he testified arrest as being in Feb or March 1986]. We can observe that FREC asked for

arrest records of a 'Feb/1986' MAN/DEL arrest, RC-1-tab1-page51, to which petitioner responded by hunting down and providing the only Feb/1986 arrest he could find, in RC1.tab1.page 36 and pages 40-45.

FACT 3.4: There is nothing in the transcript T1 or Respondent's evidence RC-1 about the disclosure of these convictions, as requested by the application forms and correspondence from FREC and the DBPR, that could merit the RO's nebulous conclusion (not a finding) which "casts doubt on his [petitioner's] credibility."

Exception 4: Page 7 paragraphs 17 through page 8 paragraph 21: The RO minimized the substance of the witness testimony by Chris Barnes, J.D.Millar, and Janet Victoria.

FACT 4.1: Respondent did not question, rebut, challenge, or in any way diminish the credibility or the integrity of the witnesses: two Ministers and a Real Estate Broker with 18 years experience.

FACT 4.2: Testimony from Pastor Chris Barnes, exhibit T1-pages 12 through 16, included his personal knowledge of Petitioner's success in the computer industry, in his church, as a Realtor, and testified he trusted Petitioner so much that he chose Petitioner to be his Realtor [to sell his house]. He further observed in the database industry Petitioner has been in a leadership role. He also observed that as a private pilot, Petitioner is trusted week in and week out [by parents] with care of young people in his plane.

FACT 4.3: Pastor Barnes also testified, T1-page 13 lines 3-17, that #1) he *did know* of Petitioner to be honest, truthful, trustworthy, of good character and having a reputation for fair dealing, that #2) he *did know* Petitioner to be a man of good conduct and reputation, *despite* knowing that 22 years ago petitioner had felony convictions for possession of cannabis and manufacture/delivery and/or possession of cocaine.

FACT 4.4: Pastor Barnes also testified, at T1-page 13 lines 20-23, to Petitioner's successful rehabilitation by pointing out that "as bad as that situation was, it was probably the thing that turned your [petitioner] life around and caused you [petitioner] to take a whole different road in life.

FACT 4.5: Respondent opened his cross examination of Pastor Barnes, T1-page 15 lines 4-7, by informing the court and witness that "it's Mr. Barnes' [the Petitioner] burden to demonstrate through subsequent conduct and reputation for honesty and fair dealing that he's been rehabilitated since his convictions in the mid 1980s. Then Respondent presented no substantial questions to the witness.

ACT 4.6: At re-direct, Chris Barnes testified at T1-page 15 and 16 that he did write a letter of recommendation to the FREC dated May 25, 2007, regarding the character of the petitioner. The court asked if we [petitioner and respondent] wanted that in evidence. The Respondent explained this letter [and several more] were already part of [their] package (Respondent's Composite Exhibit 1) on page 46. The court and respondent confirmed it [the letter(s) of Recommendation] **had already been admitted into evidence.**

FACT 4.7: All Letters of Recommendation were part of applicant's file at the FREC meeting of July 18th, 2007, and entered into evidence at DOAH hearing Dec 11, 2007 by the Respondent. All letters of Recommendation were specifically written in response to FREC's letter of May 8, 2007, RC-1-tab1 page 51, which told petitioner he was 'required to furnish at least *three (3) letters* [emphasis as found in FREC's letter] of recommendation from persons who know of your honesty, truthfulness, trustworthiness, good character and good reputation. *Two* of the recommendation letters must be from individuals who are not related to you."

FACT 4.8: Chris Barnes testified in his letter of recommendation to FREC of May 26, 2007, on RC-1.tab1.page 46 that "...Jeff is now a successful business person with an excellent work ethic, solid character and honesty, and deeply committed to serving his clients while

upholding the HIGHEST ETHICS OF THE REAL ESTATE INDUSTRY'. This testimonial was offered by the witness seven months before the DOAH hearing.

FACT 4.9: Reverend James Dean Millar testified in his written letter of Recommendation, RC-1-tab1-page 49, that "I have come to know Jeff as a caring and selfless individual whose countless acts of kindness within this congregation have been both low key and remarkable. At no time have I ever had reason to doubt the strength of Jeff's character or the consistency of his fine moral fiber."

Exception 5: Page 7 paragraphs 19: RO obscured the significance, merit, and relevance of Reverend Millar's testimony by reducing it to a summary statement that "he and Petitioner met in 2003, that Petitioner has been involved in charitable endeavors and that petitioner regularly attends church services."

FACT 5.1: Reverend Millar offered testified at hearing, T1 page 35 lines 22 through page 36 line 4 (8 lines of testimony in total), that he *did know* Petitioner to be honest, truthful, trustworthy, and of good character and having a reputation for fair dealing, and that he *did know* Petitioner is a person of good character and reputation.

FACT 5.2: Reverend Millar went on to testify for 8 paragraphs (44 lines of testimony), at T1-page 36 line 4 through page 37 line 22, to Petitioner's good conduct and reputation #1) **by observing** "that petitioner is what we in the church call a rather secret saint or a hidden saint: those who *do the work of the church* ... without drawing attention... without being asked... without seeking recognition" #2) and went on **to describe** Petitioner's good conduct and reputation in **providing service** to the **societal needs** of feeding and housing the homeless, in providing food those in need at the church food pantry, in caring for the church's Senior community, and #3) concluded those 8 paragraphs with ONE SENTENCE that "on top of that he's a regular attendee at Sunday morning worship."

FACT 5.3: Reverend Millar continued his testimony, T1-page 38 lines 2-12 to bear witness to Petitioner's the good character and reputation by his frequent participation in the ministry of Habitat for Humanity.

FACT 5.4: Reverend Millar testified to Petitioners successful rehabilitation, T1-page 40 line 17 through page 41 line 8, by admitting he knew of drug related history in the Petitioners [distant] past, but characterized that [criminal behavior] as "not [being] in what I call this lifetime, meaning since I've known him" [later established as since 2002].

Anecdote: Reverend and Mrs. Millar have since listed his townhome with Petitioner's Real Estate firm.

Exception 6: Page 7 paragraphs 19: RO overlooked the relevance, merit, and significant facts in the testimony of Janet Victoria, Petitioner's wife, but more importantly, Petitioner's direct supervisor as 18 year Real Estate veteran and Broker/Owner of an established independent Brokerage.

FACT 6.1: In response to the question at T1-page 22 lines 12 – 18 "do you know Jeff Barnes to be honest, truthful, trustworthy, of good character and having a reputation for fair dealing?" Janet Victoria testified "Yes. I've never had any problems with any of those items in terms of your service to clients and acting as a real estate salesperson."

FACT 6.2: In response to the question at T1-page 23 lines 5-18 "do you know roughly how much in sales Mr. Barnes has honestly and faithfully and fairly been able to generate in Real Estate transactions?" Janet Victoria testified "It's been over three million...it's about ten or 12 transactions."

FACT 6.3: At T1-page 23 lines 15-19 Janet Victoria acknowledged knowing of Petitioner's prior incarceration for convictions disclosed herein, yet #1) went on to agree, T1-

page 23 lines 20-23, that since she has known petitioner [since 1992] that he has always been a person of good conduct and reputation.

FACT 6.4: In response to the question at T1-page 23 line 24 through page 24 line 3 “And in the interests of the public and real estate investors, *has there ever been* any question that I [petitioner] was endangering their business or their assets or their interests?”. Janet Victoria answered **“No, there has been nothing of the sort.”** (emphasis added).

FACT 6.5: In response to subsequent cross and re-direct examination, T1-page 25 line 4 through page 26 line 11, Janet Victoria described Petitioners professional Real Estate responsibilities as everything from procuring clients and services, selling or purchasing, listing of properties, doing business jointly, showing homes, writing contracts, following through to closing, to dealing with attorneys and closing companies. She noted Petitioner does more than a typical Sales Associate by taking care of the technology side of the business and training and managing staff. She even disclosed, T1-page 25 lines 2-11, that Petitioner has actually gotten positive letters of feedback from attorneys who say it is a pleasure dealing with [petitioner].

Exception 7: Page 7 para 20 through page 8 para 1 : The Recommended order admits that “all of Petitioner’s witnesses responded affirmatively when asked if they knew the petitioner to be honest, truthful, trustworthy, and a person of good character. They also responded affirmatively when asked if they know whether the Petitioner had a good reputation for fair dealing.” But then tries to negate that admission by stating “However, their statements were more in the nature of conclusions, lacking any specific detail to support their opinions. No specific instances were related where the Petitioner demonstrated honesty, morality, or ethical behavior.”

FACT 7.1: Being a Realtor and not a lawyer, Petitioner cannot quote case law here, but is aware of the common legal principal that you can’t have it both ways.

FACT 7.2: The RO clearly overlooked the testimony of all the detail, the good works, the testimony of day to day demonstrations of successful rehabilitation, of good conduct and good reputation depicted which have been enumerated in facts 3.1 through 6.5 on the preceding several pages. Simply put, NUMEROUS specific instances were related where the petitioner demonstrated honesty, morality, and ethical behavior.

FACT 7.3: The RO is incorrect in stating “ALL of the petitioner’s witnesses...” This disregards the written testimony in evidence, RC-1-tab1 pages 46-50, from the following: #1) Mr. Tim Waterloo, consumer and broker of Petitioners IT services (p50), #2) Mr. Bill Guttman, Vice President of Genre, #3) Ms. Roseanna Conlon-Harris, Managing Director at Charles Schwaab, #4) Christopher Barnes, #5) James Dean Millar, and the written testimony of #6) the Petitioner on RC-1-tab1-page 25.

FACT 7.4: By disregarding all written testimony, the DOAH hearing excluded half the Petitioners witnesses and heard significantly less positive and detailed testimony.

FACT 7.5: The RO overlooks the fact that the attributes of honesty, truthfulness, trustworthiness, good character, and a good reputation for fair dealing are EXACTLY the criteria set forth for licensure in FS 475.17. Testimony that does not affirm these attributes would simply not pass the tests of this statute.

FACT 7.6: The RO seeks to discredit testimony containing the precise criteria provided to the petitioner regarding good conduct, etc. These criteria were SPECIFICALLY SET FORTH in the FREC LETTER TO THE PETITIONER dated May 8, 2007, that demanded the Petitioner ‘furnish at least *three (3) letters* of recommendation from persons who know of your honesty, truthfulness, trustworthiness, good character and good reputation.

FACT 7.7: The RO does not rebut the integrity or credibility of the witnesses. The witnesses testified they KNOW the petitioner as having the positive character attributes required by FS 475.17, and required by FREC demands on May 8, 2007. Calling these statements

“conclusary” does not detract from their truth. The witnesses were sworn in, they testified as to what they know, it’s that simple. The Respondent’s counsel did not rebut this testimony.

FACT 7.8: RO disregarded virtually all testimony Petitioner gave on his own behalf, including un rebutted testimony that Petitioner is an active member in no less than 4 professional Real Estate Associations whose mainstream activities are expressly stated efforts to nurture and uphold high professional ethics and professional standards, insure honesty and fair dealing, and to respect and protect the interests of the Real Estate Consumer. The RO disregarded oral testimony and subsequent elaboration in the petitioner’s PRO that as a pilot who has disclosed substance abuse history to the FAA medical examiner, the petitioner has undergone rigorous medical evaluation to certify his rehabilitation.

Exceptions to Recommended Order Conclusions of Law

General Exception to Conclusions of Law: The RO goes though many paragraphs simply to claim the Petitioner did not meet his burden of proof.

FACT: The previous 10 pages of exceptions to the RO’s findings of fact make it abundantly clear that without fair and reasonable consideration of all the evidence presented for this proceeding, no amount of facts, no amount of good character, no amount of honesty, no amount of fair dealing was able to meet the RO’s disingenuous expectations of the Petitioners burden of proof.

Exception C1: Page 12 para 34 through page 13 para 1 : This paragraph suggests that the findings of fact failed to carry Petitioner’s burden of proof by saying on page 13 “[i]t is NOT found that petitioner is not honest, truthful, trustworthy, of good character and of good reputation, or that it is likely that the interest of the public and investors will be endangered if

application is granted. It is simply concluded that petitioner has not presented sufficient proof to establish that the contrary is true at this time”.

FACT: The reader should be aware that this actually another way of saying the respondent failed to establish the Petitioner is not honest, truthful, trustworthy, of good character and of good reputation.

FACT: Again the previous 10 pages of exceptions to the RO’s “findings of fact” make it abundantly clear that without fair and reasonable consideration of all the evidence presented for this proceeding, it would be impossible to conclude that the Petitioner has not presented sufficient proofs.

Exception C2: Page 13 para 36 : Contrary to what is in the RO, the testimony clearly did not establish “another crime that was not disclosed.” The facts supporting exceptions 1, 2, and 3, along with subsequent clarification in the P-PRO, show this crime is without a doubt case 86C330335801 which was disclosed in original application received by department on April 9, 2007.

Exception C3: Page 12 para 37 : Contrary to the RO, the facts supporting exceptions 1, 2, and 3 to the RO’s findings of fact make it clear that

- 1) crime occurred in November 1985,
- 2) Petitioner was arrested for it in March of 1986,
- 3) it resulted in a conviction on Nov 19, 1986 as memorialized in Case 86C330335801
- 4) which is disclosed via Certified Statements of Conviction / Disposition, sworn to and sealed by the Cook County Clerk of the Circuit Court,
- #5) resulted in a prison sentence of 7 years, and
- #6) that these proofs were provided in the Petitioner’s application.

Exception C4: Page 13 para 37 continued : As the conviction for this crime (a 3.5 gram cocaine sale) was fully disclosed, there was no “non-disclosure”, making it impossible to conclude or assert the Petitioner had any “lack of candor” regarding a “non-disclosure”, thus making it impossible to cast doubt on his credibility. Without this “non-disclosure” or blemished credibility, DOAH case 05-4510 certainly cannot apply, negating any supposition that Petitioner’s rehabilitation is not complete.

Exception C5: Page 14 para 38 : Petitioner did offer testimony of brother Pastor Chris Barnes, wife and Broker Janet Victoria, and current Minister J.D. Millar. J.D. Millar is Petitioner’s Presbyterian minister, as he is to another 1350 members of his church, and in any familial way is a disinterested witness. As the statute requires a burden of proof requiring testimony of persons who know of Petitioner’s fine character, it is natural that all such witnesses can be considered “a friend”, negating the “friend” attribute as distinguishing characteristic of a witnesses level of “interested”, making that entire characterization moot. Furthermore, it has been pointed out that evidence show that the FREC openly solicits testimony from family members, also rendering the “disinterested” argument moot.

Exception C6: Page 14 para 38 : **Furthermore**, the facts supporting exceptions 4, 5, and 6 reveal an incredible disparity between the ROs brief 1 paragraph dismissals of each of these witnesses’ testimony and the actual testimony, which amounted to 19 separate FACTS pulled straight from the certified Transcript and the Respondents Composite Exhibit 1.

Exception C7: Page 14 para 38 : **Furthermore**, the 19 facts supporting exceptions 4, 5, and 6 reveal an abundance of substantial testimony about the Petitioner’s “subsequent good conduct and reputation” and dispel any notion that their testimony was insufficient.

Exception C8: Page 14 para 38 continued to page 15 : Furthermore, the facts supporting **exception 7** to wit the virtual suppression of the Letters of Recommendation evidence from 3 stellar citizens, and specifically the exclusion of a written testimonial that explicitly demonstrated the Petitioner's reputation for, and application of fair dealings negate a claim from DOAH case 82-453 that suggest there was no testimony regarding fair dealings. The presence of testimony from those 3 disinterested witnesses, along with the oral testimony of 4 persons makes the application of both DOAH case 82-453 "[t]he evidence petitioner adduced consisted solely of his testimony and that of his wife..." and that of DOAH case 06-3036 simply numerically inapplicable.

Exception C9: Page 15 para 39 : The "conclusary" nature of a small portion of the witness testimony was entirely appropriate in light of the fact that said testimony matched word for word the explicit criteria in FS 475.17 and that of the FREC letter dated May 8 explicitly demanding such "conclusary" testimony. Moreover, the other 19 facts of testimony and evidence presented by the witness or the Respondent clearly contradict the relevance of both DOAH cases 83-0802, where NO evidence to character was presented, and case 88-0188 where only the Petitioner testified on his behalf.

Exception C10: Page 16 para 40 : Participation in Church and Civic activities, alone, is NOT what was offered in testimony, as evidenced by the lengthy FACTS supporting Exceptions 4,5 and 6, along with significant testimony from professional associates who provided written testimony to Petitioner's "subsequent [current and decades long] good conduct and reputation, bolstered by testimony from Real Estate expert Janet Victoria who testified that Petitioner is well versed in performing numerous aspects of Real Estate business and client operations and services, and does so EXPLICITLY with good conduct, honesty and fair dealing. Aside from that, the extensive good works and personal contributions to programs like PADS, Habitat for Humanity, Lifeline Pilots are activities that sustain life and well being of those less fortunate in

our society and can hardly be trivialized as “church and charitable activities”. Moreover, far more than petitioners testimony was offered to establish Petitioners rehabilitation, even to a medically certifiable standard, Nor were church and civic activities alone offered to establish honesty, etc. Indeed, undisputed evidence of Petitioner’s election to a Presidential position in a technology User Group, and another election to a Presidential office in a nationally renown pilot organization are clear evidence that Petitioners has earned the ultimate trust in his good conduct, honesty and fair dealing by hundreds of his peers.

Exception C11: Page 16 para 41 continued to page 17 : The Petitioner’s excellent professional reputation and record, both in Real Estate and Information Technology, traversing 40 years of lifetime work experience is hardly comparable to that of a Web Designer with a bit less than six years of part-time experience. And again, in the facts for **exception 7**, professional associates have submitted letters of recommendation that attest to Petitioner’s “subsequent [current and decades long] good conduct and reputation.” All 6 letters of recommendation, including the Petitioner’s own, addressed various aspects of the ethical and personal characteristics required by FS 475.17., not to mention extensive oral testimony to same.

Exception C11: Page 17 para 42 : In sum, the **complete and factual** evidence and testimony, taken directly from the transcript and Respondents Composite Exhibit 1, presented by Petitioner has overwhelmingly rebutted the ROs Findings of Fact and decisively negated the ROs Conclusions of Law.

SUMMARY

The greater weight of the evidence of record concerning Petitioner's present state of honesty, truthfulness, and reputation for fair dealing is clearly in his favor.

Such preponderant, indeed substantial, affirmative evidence of lapse of time; of post-conviction good conduct and good moral character; of current reputation for good moral conduct, honesty and fair dealing; and of Petitioner's successful rehabilitative efforts has sustained his burden and demonstrated herein that he has the qualities of character and reputation required by Section 475.17(1)(a), and that if licensed, Petitioner will not endanger the public interest or investors in real estate.

RECOMMENDATION

These Findings of Fact and Conclusions of Law can permit the Florida Real Estate Commission to enter a Final Order providing that, subject to successful completion of the necessary examinations within one year from the date of the final order, the Petitioner be granted a real estate broker's license.

Submitted this 14th day of February, 2008, in Orlando, Florida.

S

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Licensed Real Estate Salesperson in WI
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CERTIFICATE OF SERVICE

I CERTIFY that a copy hereof has been furnished by U.S. Mail and electronic mail to:

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S

Jeffrey C. Barnes

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JEFFREY BARNES,)
)
 Petitioner,)
)
 vs.) Case No. 07-4522
)
 FLORIDA REAL ESTATE COMMISSION,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Administrative Law Judge Don W. Davis of the Division of Administrative Hearings conducted a final hearing in this case on December 11, 2007, in Tallahassee, Florida.

APPEARANCES

For Petitioner: Jeffrey C. Barnes, pro se
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For Respondent: Garnett Chisenhall
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STATEMENT OF THE ISSUE

The issue in this case is whether the Petitioner's application for licensure as a real estate broker should be approved or denied.

PRELIMINARY STATEMENT

On August 8, 2007, the Florida Real Estate Commission (the Commission) rendered a "Notice of Intent to Deny" informing the Petitioner of the Commission's preliminary decision to deny his application for licensure as a real estate broker. Via the Notice of Intent to Deny, the Commission also advised the Petitioner of his right to challenge the Commission's proposed action through an administrative hearing. On September 4, 2007, the Petitioner filed a hearing request with the Commission, and the matter was referred to the Division of Administrative Hearings (DOAH) for a formal administrative hearing.

During the final hearing in this matter, the Petitioner testified on his own behalf and called the following witnesses: Ms. Janet Victoria, Pastor Christopher Barnes, and Reverend J.D. Millar. The Petitioner also offered into evidence an audio recording from the Commission's July 18, 2007, meeting in Orlando, Florida, and it was accepted into evidence without objection.^{1/} The Commission did not call any witnesses, but it offered a composite exhibit which was accepted into evidence without objection. That composite exhibit consisted of Chapter 475, Part I, Florida Statutes (2007), and a copy of the Respondent's application file maintained by the Division of Real Estate.

A transcript of the proceeding was filed with DOAH on December 19, 2007. The parties requested and were granted leave to file proposed recommended orders more than 10 days following the filing of the transcript. Proposed recommended orders were submitted by the parties and both proposals have been considered and utilized in preparing this Recommended Order.

FINDINGS OF FACT

1. The Petitioner, Jeffrey C. Barnes, is a 60-year-old male who maintains a residence in Illinois and is currently a licensed realtor in Illinois and Wisconsin.
2. On April 9, 2007, the Department of Business and Professional Regulation received the Petitioner's application to become a licensed real estate broker in Florida.
3. The Petitioner responded affirmatively to a question on the application form which asked, "Have you ever been convicted of a crime, found guilty, or entered a plea of guilty or nolo contendere (no contest) . . . , even if you received a withhold of adjudication?"
4. The Petitioner's reported criminal history began with an incident on November 19, 1985, when the Illinois police stopped him for driving 53 M.P.H. in a 40 M.P.H. zone. Upon discovering that the Petitioner was driving with a suspended license, the police arrested him and found a small glass bottle containing cocaine on his person. The police also found 23

individually-wrapped packets of cocaine in the Petitioner's vehicle. Because of this incident, the Illinois authorities charged the Petitioner with unlawfully possessing a controlled substance with the intent to deliver more than 30 grams.

5. On February 18, 1986, an Illinois police officer witnessed the Petitioner driving erratically and pulled his car over. While asking for the Petitioner's license, the officer detected a strong odor of alcohol coming from the car. Upon looking into the car, the officer saw a bottle containing cocaine hanging from one of the Petitioner's pockets. During a subsequent search of the Petitioner and his car, the police discovered drug paraphernalia and more cocaine. The police also administered a sobriety test which the Petitioner failed.

6. The Petitioner was 38 years old during the incidents described above.

7. Ultimately, the Petitioner was convicted on two counts of manufacturing and delivering a controlled substance, one count of possessing cannabis, and one count of possessing a controlled substance (i.e., cocaine). The Petitioner was released in 1990 after serving four years in prison.

8. The Commission considered the Petitioner's licensure application on July 18, 2007 during a regularly-scheduled meeting in Orlando, Florida. The Petitioner was present, but he was not represented by an attorney.

9. During the aforementioned meeting, the Commission made the following findings of fact: (a) "[a]pplicant's criminal record is as revealed in [his] application; (b) "[a]pplicant's testimony or evidence in explanation/mitigation was unpersuasive;" and (c) "[a]pplicant's criminal history is recent in time."^{2/}

10. Based on the findings of fact described above, the Commission concluded the Petitioner had "engaged in conduct or practices which would have been grounds for revoking or suspending a real estate license." The Commission also concluded the Petitioner had been "[c]onvicted or found guilty or entered a plea of nolo contendere to, . . . a crime which directly relates to activities of a licensed broker or sales associate or involves moral turpitude or fraudulent or dishonest dealing."

11. Ultimately, the Commission elected to deny the Petitioner's application by concluding "it would be a breach of its duty to protect the health, safety and welfare of the public to license this applicant and thereby provide him easy access to the homes, families or personal belongings of the citizens of Florida."

12. The Commission's decision was memorialized in a "Notice of Intent to Deny" rendered on August 8, 2007.

13. The Petitioner responded by filing a petition disputing the facts on which the Commission's decision was based. Specifically, due to the lapse of time since his convictions and subsequent good conduct, the Petitioner asserted he satisfied the criteria for licensure set forth in Section 475.17(1)(a), Florida Statutes.

14. During the December 11, 2007 formal hearing, the Petitioner testified on his own behalf and described how he has worked in the information technology field for over 35 years. In addition, the Petitioner described his charitable and civic activities in considerable detail.

15. The Petitioner attributed his convictions to a serious cocaine addiction. While incarcerated, he participated in substance abuse programs and describes his time in prison as a blessing. The Petitioner testified that he has had no further involvement with illegal drugs since his release from prison.

16. During his testimony at hearing, the Petitioner revealed that he had sold 3.5 grams of cocaine to a friend in the presence of an undercover police officer, a crime not disclosed to the Commission in his licensure application. The Petitioner was not specific about when this crime occurred, but he believed that he was 25 or 30 years old at the time. While it is uncertain whether the Petitioner's sale of cocaine actually resulted in a conviction which had to be expressly

disclosed to the Commission in his licensure application, his claim that this crime was fully disclosed casts doubt on his credibility.

17. In addition to his own testimony, the Petitioner offered the testimony of his brother, Pastor Christopher Barnes. When asked about the Petitioner's character, Pastor Barnes expressed his opinion that the Petitioner's arrest and convictions were responsible for the turn-around in the Petitioner's life and present day exemplary good character.

18. The Petitioner also offered the testimony of his wife, Ms. Janet Victoria. They met in late 1991 or early 1992 and have been married since 1997. Ms. Victoria works as a real estate broker in Illinois, and the Petitioner began working for her in 2004.

19. Reverend James Dean Millar also testified on the Petitioner's behalf that he and the Petitioner met in 2003, that the Petitioner has been involved in charitable endeavors and that the Petitioner regularly attends church services.

20. All of the Petitioner's witnesses responded affirmatively when asked if they knew the Petitioner to be honest, truthful, trustworthy, and a person of good character. They also responded affirmatively when asked if they knew whether the Petitioner had a good reputation for fair dealing. However, their statements were more in the nature of

conclusions, lacking any specific detail to support their opinions. No specific instances were related where the Petitioner demonstrated honesty, morality, or ethical behavior. Also, none of the witnesses can be considered "disinterested."

21. The testimony and evidence indicated the Petitioner is accomplished in the fields of information technology and real estate sales.

CONCLUSIONS OF LAW

22. DOAH has jurisdiction over the subject matter of this proceeding and over the parties hereto pursuant to Chapter 120, Florida Statutes.

23. The Commission consists of seven members who act in a quasi-judicial capacity. Those seven members are responsible for regulating real estate brokers, salespersons, and real estate schools. See §§ 475.001, 475.02, Fla. Stat. (2007).

24. The Department of Business and Professional Regulation licenses any applicant whom the Commission certifies as being "qualified to practice as a broker or sales associate." § 475.181(1), Fla. Stat. (2007).

25. A professional license is not a right, but a privilege granted by the State. Borrego v. AHCA, 675 So. 2d 666, 668 (Fla. 1st DCA 1996).

26. The Commission's judgment regarding who is qualified to hold a real estate broker's license in Florida is entitled

to a considerable degree of deference. See Autry v. Fla. Real Estate Comm'n, DOAH Case No. 07-0587 (Recommended Order issued July 8, 2007, adopted by Final Order issued July 10, 2007) where the Administrative Law Judge concluded that licensing agencies such as the Commission have broad latitude in determining the fitness of applicants for licensure; Dep't of Bus. & Prof'l Regulation v. Martin County Liquors Inc., 574 So. 2d 170, 175 (Fla. 1st DCA 1991) (holding "[a]gencies have broad discretionary authority to issue licenses especially when the operation of that license is deemed a privilege rather than a right, as in liquor licenses"); Astral Liquors, Inc. v. Dep't of Bus. & Prof'l Regulation, 463 So. 2d 1130, 1132 (Fla. 1985) (noting that "[d]iscretionary authority is necessary for agencies involved in the issuance of licenses and the determination of fitness of applicants for licenses" and that "[t]his discretionary authority is particularly necessary where an agency regulates 'occupations which are practiced by privilege rather than by right and which are potentially injurious to the public welfare.' Solimena, 402 So. 2d at 1246.").

27. Deference to the Commission's judgment is particularly important in the instant case because the Petitioner is seeking a broker's license rather than a sales associate's license. Accordingly, if the Petitioner were to be licensed, he would

not be subject to supervision. See § 475.01(1)(j), Fla. Stat. (2007) (defining the term "sales associate" to mean "a person who performs any act specified in the definition of 'broker,' but who performs such act under the direction, control, or management of another person.").

28. With regard to determining who is qualified to practice as a broker or sales associate, Section 475.25(1)(f), Florida Statutes (2007), provides in pertinent part that the Commission may deny an application for licensure if it finds that the applicant "[h]as been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of a licensed broker or sales associate, or involves moral turpitude or fraudulent or dishonest dealing." (emphasis added)

29. In addition, Section 475.17(1)(a), Florida Statutes (2007), provides in pertinent part that:

if the applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for revoking or suspending her or his license under this chapter had the applicant then been registered, the applicant shall be deemed not to be qualified unless, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, it appears to the Commission that the interest of the public and investors will not likely be endangered by the granting of registration.

(emphasis added)

30. The Petitioner was convicted on two counts of manufacturing and delivering cocaine, and such an offense is a crime of moral turpitude.^{3/}

31. Such crimes would have been grounds for revoking or suspending a license if the Petitioner had been licensed at the time he committed the offenses. See § 475.25(1)(f), Fla. Stat. (2007).

32. Therefore, in order to avoid a determination that he does not satisfy the criteria for licensure as a real estate broker set forth in Section 475.17(1)(a), Florida Statutes (2007), and that his application for licensure should not be denied pursuant to Section 475.25(1)(f), Florida Statutes (2007), it was the Petitioner's burden to establish by a preponderance of the evidence that, "because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, . . . the interest of the public and investors will not likely be endangered" by granting his application. See Osborne Stern & Co., 670 So. 2d at 934 (noting "[t]he general rule is that a party asserting the affirmative of an issue has the burden of presenting evidence as to that issue.").

33. The convictions disclosed on the Petitioner's licensure application resulted from arrests which occurred on

November 19, 1985 and February 18, 1986. Given the amount of time that has passed since those arrests, however, one could conclude there has been a sufficient "lapse of time." Notably, Section 475.17(1)(a), Florida Statutes (2007), requires that the Petitioner also demonstrate through "subsequent good conduct and reputation, or other reason deemed sufficient, . . . [that] the interest of the public and investors will not likely be endangered" by granting his application. See Strockbine v. Dep't of Bus. & Prof'l Regulation, DOAH Case No. 05-1138 (Recommended Order issued June 29, 2005; adopted by Final Order issued April 27, 2006, noting that passage of time notwithstanding, "[s]ection 475.17(1)(a), Florida Statutes, however, requires both the passage of time and subsequent good conduct and reputation. Viewing both prongs of the test leads one to conclude that Petitioner has satisfied neither.")

34. There is no need to assess whether there has been a sufficient "lapse of time" since the Petitioner committed his offenses. As explained below, the Findings of Fact set forth above lead the undersigned to conclude that the Petitioner has failed to carry his burden of proof on the second prong of Section 475.17(1)(a), Florida Statutes (2007). See generally Lillquist v. Dep't of Bus. & Prof'l Regulation, Fla. Real Estate Comm'n, DOAH Case no. 86-2902, (Recommended Order issued January 14, 1987, adopted by Final Order issued February 20,

1987, explaining "[i]t is not found or concluded that Petitioner is not honest, truthful, trustworthy, of good character and of good reputation for fair dealing, or that it is likely that the interest of the public and investors will be endangered if Petitioner's application is granted. It is simply concluded that Petitioner has not presented sufficient proof to establish that the contrary is true at this time.").

35. The Petitioner was 38 years old at the time of his arrests. Therefore, his crimes cannot be attributed to youthful indiscretion. See Autry, supra (finding the "Petitioner's criminal offenses were not acts of youthful indiscretion or the result of momentary lapses of judgment. All of the offenses, except for the first DUI, were committed when Petitioner was in his 30's and working in a professional capacity.").

36. Additionally, the Petitioner's admissions at the final hearing established his commission of another crime that was not disclosed to the Commission in his licensure application. Specifically, the Petitioner revealed that he had sold 3.5 grams of cocaine to a friend in the presence of an undercover police officer.

37. While it is uncertain whether that crime actually resulted in a conviction which had to be explicitly disclosed to the Commission in the licensure application, the

Petitioner's lack of candor regarding the non-disclosure casts doubt on his credibility. See generally Nutting v. Fla. Real Estate Comm'n, DOAH Case No. 05-4510 (Recommended Order issued April 18 2006, adopted by Final Order issued July 27, 2006, finding the "Petitioner's evasiveness and lack of candor demonstrate his failure to acknowledge and take responsibility for his past actions. Petitioner's rehabilitation will not be complete before that happens.").

38. In order to bolster his own testimony regarding the second prong of Section 475.17(1)(a), Florida Statutes (2007), the Petitioner offered the testimony of his brother (Pastor Christopher Barnes), his wife (Ms. Janet Victoria), and a friend (Reverend James Dean Millar). However, they were not disinterested witnesses, and their testimony is insufficient to support a finding of the Petitioner's "subsequent good conduct and reputation." See generally Bettis v. Dep't of Bus. & Prof'l Regulation, Fla. Real Estate Comm'n, DOAH Case No. 82-453 (Recommended Order issued September 20, 1982, and adopted by Final Order issued October 20, 1982, concluding "[t]he evidence petitioner adduced consisted solely of his own testimony and that of his wife. There was no testimony as to his reputation either for fair dealing or otherwise. Notwithstanding the apparently exemplary life petitioner has led since prison, this testimony, uncorroborated by a single

disinterested witness, is legally insufficient to meet Petitioner's burden of proof."); Taylor v. Dep't of Bus. & Prof'l Regulation, Fla. Real Estate Comm'n, DOAH Case No. 06-3036 (Recommended Order issued January 9, 2007, adopted by Final Order issued March 22, 2007, concluding that in order to satisfy the two-prong test of Section 475.17(1)(a), "Petitioner must offer more than her own statements and those of her personal friend attesting to her good conduct over the past nine years. Such statements are insufficient to meet the required burden of proof.") (emphasis added).

39. Moreover, the conclusory nature of the witnesses' testimony did not assist the Petitioner in satisfying his burden of proof. See Baumgartner v. Dep't of Bus. & Prof'l Regulation, Fla. Real Estate Comm'n, DOAH Case no. 83-0802 (Recommended Order issued August 27, 1984, recommending denial of the petitioner's licensure application and concluding "[n]o direct evidence was introduced to show that Petitioner is honest, truthful, trustworthy or of good character, not even the testimony of the Petitioner himself."); Wozniak v. Fla. Real Estate Comm'n, DOAH Case No. 88-0188, (Recommended Order issued May 10, 1988, recommending denial of the petitioner's licensure application and concluding "[t]here is little evidence of good conduct and honest reputation beyond the

conclusory and uncorroborated assertions of good character by Petitioner.") (emphasis added).

40. While the Petitioner and his witnesses testified at about his participation in church and charitable activities, such testimony does not satisfy the criteria of Section 475.17(1)(a), Florida Statutes (2007). See Doltie v. Dep't of Bus. & Prof'l Regulation, Div. of Real Estate, DOAH Case no. 02-0112 (Recommended Order issued May 23, 2002, finding that "Petitioner's testimony that he participates in church and civic activities does not establish that Petitioner has completed his rehabilitation. Nor are such activities, alone, sufficient to establish his honesty, trustworthiness, good character, or reputation for fair dealing.").

41. Finally, the testimony and evidence indicates the Petitioner is accomplished in the fields of information technology and real estate sales. However, information on the Petitioner's success in his chosen fields of endeavor is also insufficient to establish the Petitioner's "subsequent good conduct and reputation." See generally Denicola v. Dep't of Bus. & Prof'l Regulation, Div. of Real Estate, DOAH Case No. 03-3498 (Recommended Order issued on March 5, 2004, adopted by Final Order dated June 10, 2004, finding that "[s]ince Petitioner's release six years ago, he has started his own part-time computer web design company. Many of his

customers submitted letters of recommendation on his behalf. These recommendations include stating what a fine webmaster and computer specialist he is and stating that his clients have trust and confidence in his computer skills and his business decisions and advice. His wife also has expressed confidence in him through her letter. They are starting a family. Unfortunately, only one letter mentioned moral or ethical considerations. None of the letters related specific personal experiences with Petitioner's honesty, morality, or ethical behavior over the entire course of time that the author had known Petitioner.").

42. In sum, the evidence and testimony offered by the Petitioner fails to establish by a preponderance of the evidence that "because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, . . . the interest of the public and investors will not likely be endangered" by granting his application.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED:

That a final order be entered denying the Petitioner's application for licensure as a real estate broker.

DONE AND ENTERED this 30th day of January, 2008, in
Tallahassee, Leon County, Florida.

Don W. Davis

DON W. DAVIS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 30th day of January, 2008.

ENDNOTES

1/ While the Commission considered and denied the Petitioner's licensure application during its July 18, 2007 meeting, the audio recording from that meeting has little or no relevance to the instant proceeding which is de novo in nature. See Snodgrass v. Dep't of Bus. & Prof'l Regulation, Div. of Real Estate, DOAH Case no. 05-1111 (Recommended Order issued September 30, 2005; Final Order issued February 21, 2006, noting "[t]he hearing to prove entitlement is de novo in nature and is not a review of the hearings previously conducted by the Florida Real Estate Commission."); Silverstein v. Fla. Real Estate Comm'n, DOAH Case no. 06-1144 (Recommended Order issued June 26, 2006; Final Order issued August 21, 2006, noting the de novo nature of the proceeding and that "the undersigned has a duty, as a participant in the decision-making process, to make an independent recommendation, based on the evidentiary record and applicable law, regarding the form and substance of final agency action in the cause.").

2/ A document entitled "Key for Licensure Denials" is attached to the Commission's Notice of Intent to Deny. The "Key for Licensure Denials" is intended to facilitate licensure proceedings by setting forth findings of fact and conclusions of law that could apply to any licensure applicant. At the conclusion of a licensure proceeding, a Commission staff member can simply "check-off" the findings of fact and conclusions of law that were made by the Commission. The "Key for Licensure Denials" associated with the instant case indicates the Commission also found that the Petitioner: (a) "has operated as though licensed while unlicensed;" and (b) has had other licenses revoked or suspended. However, the Commission's attorney stated during the formal hearing in this matter that he had listened to the audio recording from the Commission's July 18, 2007, meeting and ascertained there was nothing to support those findings of fact. He surmised that a scrivener's error was responsible for the discrepancy between the "Key for Licensure Denials" associated with the instant case and the findings actually made by the Commission during its July 18, 2007 meeting.

The "Key for Licensure Denials" associated with the instant case also cited Chapter 112 of the Florida Statutes and "failure to establish restoration of civil rights" as additional justification for denying the Petitioner's licensure application. However, in Scherer v. Dep't of Bus. & Prof'l Regulation, 919 So. 2d 662, 664 (Fla. 5th DCA 2006), the Fifth District Court of Appeal held that Section 112.011(1)(b) of the Florida Statutes "does not deny licensure to a felon whose civil rights have not been restored."

3/ In State ex rel. Tullidge v. Hollingsworth, 146 So. 660, 661 (Fla. 1933), the Florida Supreme Court described "moral turpitude" as "the idea of inherent baseness or depravity in the private social relations or duties owed by man to man or by man to society. It has also been defined as anything done contrary to justice, honesty, principle or good morals, though it often involves the question of intent as when unintentionally committed through error of judgment when wrong was not contemplated."

COPIES FURNISHED:

Garnett Chisenhall, Esquire
Office of the Attorney General
Plaza Level 01, The Capitol
Tallahassee, Florida 32399

Jeffrey C. Barnes
133 Adler Drive
Libertyville, Illinois 60048

Poul Hornsleth, Chairman
Real Estate Commission
Department of Business
and Professional Regulation
400 West Robinson Street, Suite 801N
Orlando, Florida 32801

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

JEFFREY C. BARNES,

Petitioner,

v.

CASE NO.: 07-4522

FLORIDA REAL ESTATE COMMISSION

Respondent.

RESPONDENT'S EXHIBITS

TABLE OF CONTENTS

A Copy of the Application File for
Jeffrey C. Barnes Maintained by
the Division of Real Estate **1**

Chapter 475, Part I, Florida
Statutes (2007) **2**

RESPONDENT'S EXHIBIT No. 1

Division of Real Estate
Thomas O'Bryant, Jr., Director
400 West Robinson Street, N801
Orlando, Florida 32801-1757

Phone: 407.481.5662
Fax: 407.317.7245
www.MyFlorida.com/dbpr
www.MyFloridaLicense.com

CERTIFICATION OF RECORDS

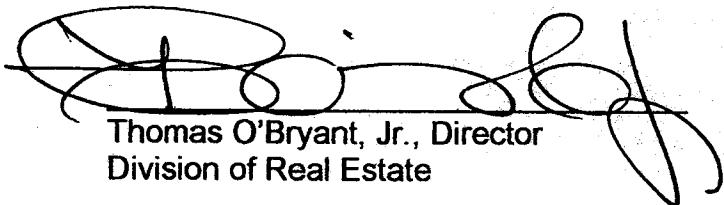
Before me this day appeared Thomas W. O'Bryant, Jr., who

(check one) X Being personally known by me, or

_____ Having presented a State of _____ Drivers License

was duly sworn, and states:

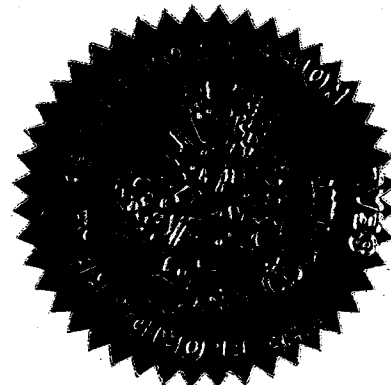
1. I am the Director of the Division of Real Estate of the State of Florida, Department of Business and Professional Regulation.
2. I am the Custodian of Records of the Division of Real Estate of the State of Florida, Department of Business and Professional Regulation.
3. I HEREBY certify that the 52 pages attached hereto is a true and correct copy of the application file of Jeffrey C. Barnes, as maintained in the ordinary course of business of the Division of Real Estate of the State of Florida, Department of Business and Professional Regulation.


Thomas O'Bryant, Jr., Director
Division of Real Estate

Sworn to and subscribed before me this 1st day of October
_____, 2007.



Notary Public
My Commission Expires:



**Petition for Evidentiary Proceeding and Administrative Hearing
Asserting Disputed Issues of Material Facts**

SFP 04 2007
TIER N/SU
RECEIVED BY

Page 1 of 2

SIGNED _____
DATE _____

Department of Business & Professional Regulation
FLORIDA REAL ESTATE COMMISSION

FILED

Agency: Florida Department of Business and Professional Regulation
Division of Real Estate, Real Estate Commission as convened July 18, 2007 in Orlando FL.
400 W. Robinson St., N801 Orlando FL, 32801

In RE: Application of Jeffrey C. Barnes for Real Estate Broker License SOA 004-07-2007,
application #1833297, profession 2501

Petitioner: Jeffrey C. Barnes, 133 Adler Drive, Libertyville IL 60048,
847-331-2567 cell 847-549-7765 home

Petitioner's Representative: To Be Named.

Petitioner's Substantial Interests affected by Agency determination: \$1,500,000 to \$2,000,000 in income.

When Notified: Petitioner received Agency's Notice of Intent to Deny on Tuesday August 14, 2007. PLEASE NOTE the certified mail intended for petitioner was not delivered to petitioner's address at 133 Adler Drive Libertyville IL, but instead to Petitioner's business address at 128 Peterson Rd, Libertyville IL, nor was it signed for by petitioner. The misdirected mail was an honest attempt by a well-intentioned postal worker to improve delivery but actually caused an unintended delay of several days.

Disputed Issues of Material Fact: per the Agency's Notice of Intent to Deny, referencing "Key For License Denials", Petitioner disputes all points cited as 'Findings of Fact', to wit numbers 1, 3, 4, 5, 8; and accordingly Petitioner disputes subsequent 'Conclusions of Law' A, C, G, and M.

Petitioner's Facts that warrant Reversal of Agency's proposed Denial:

1) Petitioner's crimes, as fully and forthrightly disclosed in application per Agency guidelines and by specific Agency request, occurred over 21 years ago with all sentences served per prevailing statute with maximum time off for good behavior, evidenced by certified court dispositions. Petitioner provided testimony that he is a good member of church and community, that he is an IT consulting firm President of 30 years tenure, is also the elected President of a major Technology User Group, is a licensed and active Realtor in Illinois and Wisconsin with over 2 ½ years experience, and is a pilot who has donated over 600 charity flight missions to introduce children to the character building experiences of American aviation. Petitioner is also member of National Association of Realtors. These facts meet the criteria of FS 475.17 (1a) that mitigate a criminal history, to wit: "because of lapse of time and subsequent good conduct and reputation" and thus mitigate 'finding of fact #1'. Furthermore...

2) Petitioner's affidavits of good character and high integrity, provided by 2 members of clergy, a Vice President of GENRE Insurance, a VP/Director of Charles Schwaab Inc., the President of OAK Enterprises, a highly respected Chicago IT consultancy, were left unread and unacknowledged by the Commission. These factual and verifiable affirmations, along with Petitioner's sworn testimony as recounted in preceding paragraph clearly refute Commission's finding of "unpersuasive testimony" (#4).

3) Commission incorrectly and without grounds alleged Petitioner has engaged in unlicensed practice (key #3).

4) Commission made a judgment that crimes that occurred over 21 years ago are "recent" (key #5). In fact, the age of these crimes are now several times past their own statute of limitations and twice past the 10 year time limit of the Fair Credit Reporting Act.

5) Commission incorrectly and without grounds alleged "Other License Discipline" where none exist (key #8).

6) Commission asserts Petitioner's testimony was unpersuasive (key #4). Per the record, Commission engaged in little or no discussion of crime nor the petitioner's successful rehabilitation and DID NOT ALLOW petitioner to present considerable and substantial persuasive testimony, notwithstanding the testimony noted above in Paragraph 1. Commission instead directed the proceeding discussions through various commissioners' personal doubts and speculation that as someone licensed in other states the petitioner could not give good service to Florida clients as a Broker. Commission recommended to petitioner that he make application for Real Estate Salesperson instead of Real Estate Broker and actually asked petitioner if he would be OK with that. This latter course of discussion is in conflict with FS 457.17 (2b1 and 2b3), which not only allows for applicants with out of state license but actually makes an out of state license a prerequisite to obtaining a Broker license! Furthermore, the suggestion that Petitioner be granted a Real Estate Sales Associate license (vs a Broker's License) is prima facia evidence that commission had determined Petitioners criminal record has no bearing on his Real Estate License. Petitioner asserts any Denial based upon this line of reasoning is an invalid exercise of delegated responsibility per FS 120.56.

Statutes requiring, or leading to, reversal of Agency's Denial: FS 457.17 1a, 2b1, 2b3, FS 120.56, 28-106.201.

Relief sought: 1) Petitioner asks that an Administrative Hearing Judge a) overrule the Commission's Intent to Deny and/or Denial of Application and b) to direct the Agency to accept the Petitioner's Application for Real Estate Broker, contingent only upon applicant's successful fulfillment of Agency's educational requirements and passing of the Florida Broker's exam within time frames and other guidelines afforded to all applicants pursuant to FS 457.17. 2) Petitioner seeks reimbursement of any fees and out of pocket expenses, including attorneys' fees, document fees, filing fees, travel expenses, et al, that will be and have been incurred in this proceeding, that are allowable under Florida Statue and/or Administrative Code(s).



Petitioner Signature



Date

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

(4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

(5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

Specific Authority 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History-New 4-1-97, Amended 9-17-98.

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

FILED
Department of Business and Professional Regulation
DEPUTY CLERK

CLERK
DATE

Brandon M. Nichols
8-8-2007

IN RE: APPLICATION OF JEFFREY C. BARNES
FOR A REAL ESTATE LICENSE

/ SOA 004-07-2007

NOTICE OF INTENT TO DENY

THIS APPLICATION came on for consideration by the Florida Real Estate Commission (Commission) at its regularly scheduled meeting in Orlando, Florida on July 18, 2007. Applicant was present, but was not represented by counsel.

The Commission reviewed the Application, the disclosed criminal history and the applicant's explanation(s), any and all documents presented on applicant's behalf, and being otherwise fully apprised in the circumstances:

Findings of Fact

1. The "Key For License Denials," attached hereto as Exhibit "A," is hereby adopted and incorporated by reference as the Key to the Commission's Findings of Fact in this case.
2. Pursuant to the Key for License Denials, the Commission finds the following facts in this case, to wit: 1,3,4,5,8.

Conclusions of Law

1. The "Key For License Denials," attached hereto as Exhibit "A," is hereby adopted and incorporated by reference as the Key to the Commission's Conclusions of Law in this case.

2. The Commission concludes that the admitted criminal violations and other facts found constitute the following violations of statutory provisions set forth in the Key for License Denials, to wit: A,C,G,M.

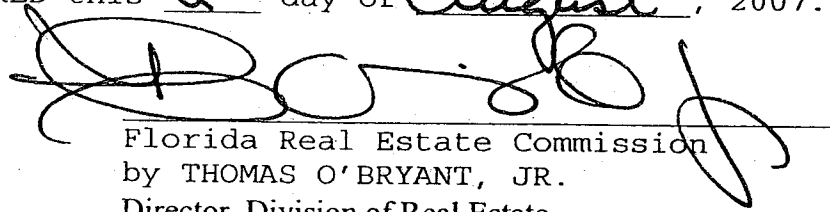
3. The violations of the statutory sections listed above are grounds for denial of this license application.

WHEREFORE, it is hereby ORDERED and ADJUDGED that:

Applicant's license application is DENIED.

This Order is effective when filed with the clerk of the Department of Business and Professional Regulation.

DONE and ORDERED this 2 day of August, 2007.


Florida Real Estate Commission
by THOMAS O'BRYANT, JR.
Director, Division of Real Estate

NOTICE OF RIGHTS

You may seek review of this Order, pursuant to Sections 120.569 and 120.57, Florida Statutes, by filing a petition with the Division of Real Estate within 21 days of receipt of this Order.

If you dispute any material fact upon which the Commission's decision is based, you may request a hearing pursuant to Section 120.57(1), Florida Statutes; your petition must contain the information required by Rule 28-106.201, Florida Administrative Code, including a statement of the material facts which are in dispute.

If you do not dispute any material fact, you may request a hearing pursuant to Section 120.57(2), Florida Statutes; your petition must include the information required by Rule 28-106.301, Florida Administrative Code.

Pursuant to Section 120.573, Florida Statutes, you are hereby notified that mediation pursuant to that section is not available.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Jeffrey C. Barnes, 133 Adler Drive, Libertyville, Illinois 60048, and to Jeannie Adkinson, Division of Real Estate, 400 W. Robinson Street, Suite N 801, Orlando, FL 32801-1757 on this 8th day of August, 2007.

Jason Wachman

KEY FOR LICENSE DENIALS

MOTION: I Move the Commission Find the Following Facts: (Use All that Apply)

1. CRIMES IN APPLICATION Applicant's criminal record is as revealed in application.
2. FAILURE TO DISCLOSE Applicant's complete criminal record was not revealed in application.
3. UNLICENSED PRACTICE Applicant has operated as though licensed while unlicensed.
4. UNPERSUASIVE TESTIMONY Applicant's testimony or evidence in explanation/mitigation was unpersuasive.
5. CRIMES RECENT Applicant's criminal history is recent in time.
6. PATTERN OF CRIME Applicant's criminal history shows a pattern and practice of criminal behavior over an extended period of time.
7. NO SHOWING REHABILITATION Applicant has not had sufficient time free of government supervision to establish rehabilitation.
8. OTHER LICENSE DISCIPLINE Applicant has had other licenses _____ (specify) revoked or suspended in _____ (jurisdictions) for dishonesty mishandling funds business activities that impacted the health, safety or welfare of the public.
9. CONVICTED FELON Applicant is a convicted felon.

MOTION: I move the Commission reach the Following Conclusions of Law

- A Failure to establish restoration of civil rights. Chapter 112, F.S.
- B Failing to demonstrate: honesty, truthfulness, trustworthiness and good character, a good reputation for fair dealing competent and qualified to conduct transactions and negotiations with safety to others. 475.17(1)(a), 475.181 F.S.
- C Having engaged in conduct or practices which would have been grounds for revoking or suspending a real estate license. 475.17(1)(a), 475.181, F.S.
- D Having been denied licensure or having a license to practice any regulated business, profession or vocation, for conduct which would constitute a violation of this Chapter. 475.1791(a), 475.181 F.S.
- E Guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme, or device, culpable negligence or breach of trust in any business transaction; 475.25(1)(b), 475.181 F.S.
- F Found guilty of a course of conduct or practices which show applicant is so incompetent, negligent, or dishonest that money, property and rights of others may not safely be entrusted to applicant. 475.25(1)(o), 475.181 F.S.
- G Convicted or found guilty or entered a plea of nolo contendere to, regardless of adjudication, a crime which directly relates to activities of a licensed broker or sales associate or involves moral turpitude or fraudulent or dishonest dealing. 475.25(1)(f), 475.181 F.S.
- H Applicant has not had sufficient lapse of time, without government supervision, to establish rehabilitation by being crime free.
- I Having operated as a broker or sales associate without holding a license to do so. 475.42, 475.181, F.S.
- J Having been a sales associate who operated as a broker or a sales associate not registered as his or her employer. 475.42, 475.181
- K Other violation of Section 475.42 _____ (specify), 475.181, F.S.
- L Applicant is subject to discipline under 475.25 _____ (specify), 475.181, F.S.
- M The Commission concludes that it would be a breach of its duty to protect the health, safety and welfare of the public to license this applicant and thereby provide him/her easy access to the homes, families or personal belongings of the citizens of Florida. 455.201, F.S.

Summary of Applicants

FREC Meeting: July 18, 2007

SOA #004-07-2007

NAME: JEFFREY C. BARNES

DOB: 10/26/1947

STATUS: CONSIDERATION OF A BROKER APPLICATION

[Handwritten scribble]
50
Approved
07/19/07

In reference to question #1, regarding charges and convictions.

DATE	CHARGE	ACTION TAKEN
11/15/85	Applicant disclosed: <ul style="list-style-type: none"> • Manufacture/Deliver of a Controlled Substance 	Disposition: <ul style="list-style-type: none"> • Sentenced 4 years – served 2 years
02/1986	Applicant disclosed: <ul style="list-style-type: none"> • Manufacture/Delivery of a Controlled Substance 	Disposition: <ul style="list-style-type: none"> • Sentenced to 7 years w/DOC
02/1986	Applicant disclosed: <ul style="list-style-type: none"> • Possession of Cannabis 	Disposition: <ul style="list-style-type: none"> • Sentenced to 3 years w/DOC
11/17/86	Applicant disclosed: <ul style="list-style-type: none"> • Possession of a Controlled Substance 	Disposition: <ul style="list-style-type: none"> • Incarceration w/DOC from 1986 through 1990 – Parole ended 1992
	<ul style="list-style-type: none"> • Applicant holds a real estate sales associate license in the State of Illinois. 	

REPORTS RECEIVED

FDLE _____

FBI _____

COMMISSION ACTION: APPROVED _____

DISAPPROVED _____

COMMENTS:

1
 JGC
 M

[Handwritten mark]
 008

April 17, 2007

Barnes, Jeffrey Cassius
133 Adler Drive
Libertyville, IL 60048

Re: Florida Real Estate Commission
Application No. 1833297, Profession 2501

Dear JEFFREY Barnes:

Your application was received on April 9, 2007 by the Department of Business and Professional Regulation.

Your application cannot be approved at this time for the following reasons(s).

You answered affirmatively to one or more of the background information questions 1 – 4 on Master Application form DBPR- 0010. Your application will be incomplete until you submit the required documentation. If you failed to submit official documentation (certified copies), with your application package, you must submit it to the Division of Real Estate at this time:

Question #1 – Arrest/Police reports, final court dispositions, such as a certified copy of your Judgment and sentence, letter from probation officer regarding probation status, satisfaction that all sanctions have been met.

Question #2 – A certified copy of Judgment, Decree, or Satisfaction of Judgment.

Question #3 – A certified copy of an Order or any other documentation denying your application for licensure, certification or registration.

Question #4 - Official documentation such as administrative complaint, final order and/or any other documentation from agency wherein license was disciplined.

If you wish your application to be considered for approval by the Florida Real Estate Commission, please include a copy of this letter and send the requested information to:

Division of Real Estate
400 W. Robinson Street Suite N 801
Orlando, Florida 32801-1757
ATTN: APPLICATIONS

RECEIVED

APR 24 2007

DRE - OSU

You may submit additional supporting documentation, such as restoration of civil rights and reference letters attesting to character, with your documentation.

Thank you for your cooperation. If you have any questions, please call the number below.
PJ

April 17, 2007

BARNES, JEFFREY CASSIUS
133 ADLER DRIVE
LIBERTYVILLE, IL 60048

RE: FLORIDA REAL ESTATE COMMISSION
APPLICATION NO. 1833297, PROFESSION 2501

DEAR JEFFREY BARNES:

We have received your Real Estate Broker or Sales Associate application for licensure. Your LiveScan results have not been received by the Florida Department of Law Enforcement.

A complete records check is a requirement of the licensing process. You may make a reservation by visiting the Promissor web site at www.promissor.com and then choosing "Fingerprinting Services", or contacting the Promissor reservation center at 1.877.238.8232 and selecting a date and time that is convenient for you. You will be asked to provide your demographic information at that time and make your payment.

If you have any questions, please contact us at the number below.

Thank You
PJ

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A-1833297 U-JUL 110

DBPR 0010-2 - Master Individual Application



STATE OF FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

TREASURER OF FLORIDA-DBPR ACCT1000004444 LOC7900199 DEPOSIT ONLY 4/12/2007 BT 6041020 VAL 60663860 AMT \$115.00

50 1/2 80

PERSONAL INFORMATION			
Social Security Number* [REDACTED]			
Last Name	First	Middle	Title Suffix
Barnes	Jeffrey	Cassius	
Birth Date (MM/DD/YYYY)		Gender	
10/26/1947		Male <input checked="" type="checkbox"/> Female <input type="checkbox"/>	
Race/Ethnicity (check only one):			
<input type="checkbox"/> Black or African American		<input type="checkbox"/> Asian or Pacific Islander	
<input checked="" type="checkbox"/> White or Caucasian		<input type="checkbox"/> Spanish, Hispanic or Latino	
		<input type="checkbox"/> Native American or Alaskan Native	
		<input type="checkbox"/> Other	
MAILING ADDRESS			
Street Address or P.O. Box			
133 Adler Drive			
City		State	Zip Code (+4 optional)
Libertyville		IL	60048
County (if Florida address)		Country	
		USA	
CONTACT INFORMATION			
Primary Phone Number		Primary E-Mail Address	
847-331-2567		Real Property Pro CTO. @sbcglobal.net	
RESIDENCE ADDRESS (IF DIFFERENT THAN MAILING ADDRESS)			
Street Address			
City		State	Zip Code (+4 optional)
County (if Florida address)		Country	
BUSINESS LOCATION ADDRESS			
Business/Firm Name			
Street Address			
City		State	Zip Code (+4 optional)
County (if Florida address)		Country	

ADDITIONAL CONTACT INFORMATION (OPTIONAL)	
Alternate Phone Number	Fax Number
847-549-7765	847-918-7768
Alternate E-Mail Address	
JCBARNES411@SBCGLOBAL.NET	

*Under the Federal Privacy Act, disclosure of Social Security numbers is voluntary unless specifically required by Federal statute. In this instance, Social Security numbers are mandatory pursuant to Title 42 United States Code, Sections 653 and 654; and Sections 455.203(9), 409.2577, and 409.2598, Florida Statutes. Social Security numbers are used to allow efficient screening of applicants and licensees by a Title IV-D child support agency to assure compliance with child support obligations. Social Security numbers must also be recorded on all professional and occupational license applications and will be used for licensee identification pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform Act), 104 Pub L 193, Sec. 317.

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CIU REV/ADM 11

PRIOR LICENSE INFORMATION

If you currently or previously have held a business or professional license/registration in Florida or elsewhere, please list them below:

1. License/Registration Type REAL ESTATE SALES	State IL	Date (From) 12/4/2004	Date (To) 4/30/2007
License Number 076-0406679		Name Used Jeffrey C. Barnes	
2. License/Registration Type Real Estate Sales Person	State IL	Date (From) 5/1/2007	Date (To) 4/30/2009
License Number 476-406679		Name Used Jeffrey C. Barnes	
3. License/Registration Type	State	Date (From)	Date (To)
		/ /	/ /
License Number		Name Used	

BACKGROUND INFORMATION

1.	Yes <input checked="" type="checkbox"/> (If yes, please complete form 0050-1)	No <input type="checkbox"/>	Have you ever been convicted of a crime, found guilty, or entered a plea of guilty or nolo contendere (no contest) to, even if you received a withhold of adjudication? This question applies to any violation of the laws of any municipality, county, state or nation, including felony, misdemeanor and traffic offenses (but not parking, speeding, inspection, or traffic signal violations), without regard to whether you were placed on probation, had adjudication withheld, were paroled, or pardoned. If you intend to answer "NO" because you believe those records have been expunged or sealed by court order pursuant to Section 943.058, Florida Statutes, or applicable law of another state, you are responsible for verifying the expungement or sealing prior to answering "NO." YOUR ANSWER TO THIS QUESTION WILL BE CHECKED AGAINST LOCAL, STATE AND FEDERAL RECORDS. FAILURE TO ANSWER THIS QUESTION ACCURATELY MAY RESULT IN THE DENIAL OR REVOCATION OF YOUR LICENSE. IF YOU DO NOT FULLY UNDERSTAND THIS QUESTION, CONSULT WITH AN ATTORNEY OR CONTACT THE DEPARTMENT.
2.	Yes <input type="checkbox"/> (If yes, please complete form 0050-1)	No <input checked="" type="checkbox"/>	Has any judgment or decree of a court been entered against you in this or any other state, province, district, territory, possession or nation, in which you were charged in the petition, complaint, declaration, answer, counterclaim, or other pleading with any fraudulent or dishonest dealing, or is there any such case or investigation pending?
3.	Yes <input type="checkbox"/> (If yes, please complete form 0060-1)	No <input checked="" type="checkbox"/>	Have you ever had an application for registration, certification, or licensure in Florida or in any other jurisdiction denied, or is there now pending a proceeding or investigation to deny such an application?
4.	Yes <input type="checkbox"/> (If yes, please complete form 0060-1)	No <input checked="" type="checkbox"/>	Has any license, registration or permit to practice any regulated profession, occupation, vocation, or business been revoked, annulled, suspended, relinquished, surrendered, or withdrawn in Florida or in any other jurisdiction, or is any such proceeding or investigation now pending?

If you answered "YES" to questions 1 - 4 above, please provide the full details of any criminal conviction, lawsuit or judgment, or administrative action including the nature of any charges, dates, outcomes, sentences, and/or conditions imposed; the dates, name and location of the court and/or jurisdiction in which any proceedings were held or are pending; and the designation and/or license number for any actions against a license or licensure application. Please utilize form 0050-1 for your responses to questions 1 and 2, and form 0060-1 for your responses to questions 3 and 4. If you have more than seven offenses to document on form 0050-1, attach additional copies of form 0050-1 as necessary.

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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

1940 North Monroe Street
Tallahassee, FL 32399-0783

Application requirements vary depending on the license type being applied for. The following table provides detail of the required forms for the various types of applications. You can also apply or renew licenses online and make payments by credit card by viewing the *DBPR Online Services* section located at www.MyFloridaLicense.com. If you have any questions or need assistance in completing your application, please contact the Customer Contact Center at (850) 487-1395.

Please submit this checklist with your application.

Check Action Requested	License Type	Application Fee	Required Forms (By Form Number)
<input type="checkbox"/>	Sales Associate	\$105.00	0010-2, 0030-1, 0050-1, 0060-1, 2000, 2010-b
<input type="checkbox"/>	Sales Associate (Mutual Recognition)	\$105.00	0010-2, 0030-1, 0050-1, 0060-1, 2000, 2010-b
<input checked="" type="checkbox"/>	Broker	\$115.00	0010-2, 0030-1, 0050-1, 0060-1, 2000, 2010-b
<input type="checkbox"/>	Broker (Mutual Recognition)	\$115.00	0010-2, 0030-1, 0050-1, 0060-1, 2000, 2010-b
<input type="checkbox"/>	Registered Trainee Appraiser	\$230.00	0010-2, 0030-1, 0050-1, 0060-1, 2000, 2010-a, 2060
<input type="checkbox"/>	Certified Residential Appraiser	\$330.00	0010-2, 0030-1, 0050-1, 0060-1, 2000, 2010-a, 2300
<input type="checkbox"/>	Certified Residential Appraiser (Mutual Recognition)	\$330.00	0010-2, 0030-1, 0050-1, 0060-1, 2000, 2010-a, Letter of Good Standing
<input type="checkbox"/>	Certified General Appraiser	\$330.00	0010-2, 0030-1, 0050-1, 0060-1, 2000, 2010-a, 2300
<input type="checkbox"/>	Certified General Appraiser (Mutual Recognition)	\$330.00	0010-2, 0030-1, 0050-1, 0060-1, 2000, 2010-a, Letter of Good Standing
<input type="checkbox"/>	Non-Resident Temporary Appraisal Practice Permit	\$50.00	0010-2, 0030-1, 2000, 2020

Revised 06/2006

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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION

NOTE – This form must be submitted as part of an entire application packet

APPLICANT INFORMATION				
Last Name	First	Middle	Title	Suffix
BARNES,	JEFFREY	CASSIUS		

QUESTIONS	
Are you an Attorney in good standing with the Florida Bar Association? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
If yes, provide your Florida Bar Card #:	
Are you a high school graduate or the holder of an equivalency certificate? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
SPECIAL ACCOMMODATIONS	
Do you wish to take an examination in Spanish? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Please indicate if you require testing accommodations due to disability or religion. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
If "Yes" contact the Bureau of Education and Testing at (850) 488-5952 for detailed information and application. All requests must be in writing and include supporting documents.	
MUTUAL RECOGNITION	
Are you requesting mutual recognition? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	From what state are you requesting mutual recognition? **
CONSENT TO SERVICE	
Are you a Florida resident? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(If no, please read and affirm Irrevocable Consent to Service statements below by checking BOTH items)	
NOTE: (The following Irrevocable Consent to Service is applicable to non-resident applicants only)	
<input checked="" type="checkbox"/> I agree, by becoming the holder of a Florida real estate license, to submit to the jurisdiction of the Department of Business and Professional Regulation and the Division of Administrative Hearings, which agreement is irrevocable.	
<input checked="" type="checkbox"/> I agree, by becoming the holder of a Florida real estate license, that the Director of the Division of Real Estate and his/her successors in office shall receive service of all legal process issued against me in any administrative or civil action or proceeding in this state, and process so served shall be valid and binding, which agreement is irrevocable. I further agree to file with the Division of Real Estate the designation of the name and address of the person to whom process served upon the Division Director is to be forwarded and to keep said designation current.	

** NOTE: Mutual Recognition is only with the following ten states: AL, AK, CO, GA, IN, KY, MS, NB, OK & TN.

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PRIOR NAME INFORMATION

Have you used, been known as, or called by another name (example - maiden name, pseudonym, nickname) or alias other than the name signed to the application? Yes No
If your answer is yes, state name or names used below:

Last Name	First	Middle	Title	Suffix

(NONE)

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Illinois Department of Financial and Professional Regulation
Division of Professional Regulation

ROD R. BLAGOJEVICH
 Governor

DEAN MARTINEZ
 Secretary

DANIEL E. BLUTHARDT
 Director
 Division of Professional Regulation

December 20, 2006

JEFFREY C BARNES
133 ADLER DR
LIBERTYVILLE IL 60048

I, Young E. Brockhouse, do hereby certify that I am the Licensing and Education Manager, for the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois; that I am the keeper of the records and its seal; that a standard search, of the available records, indicates the following:

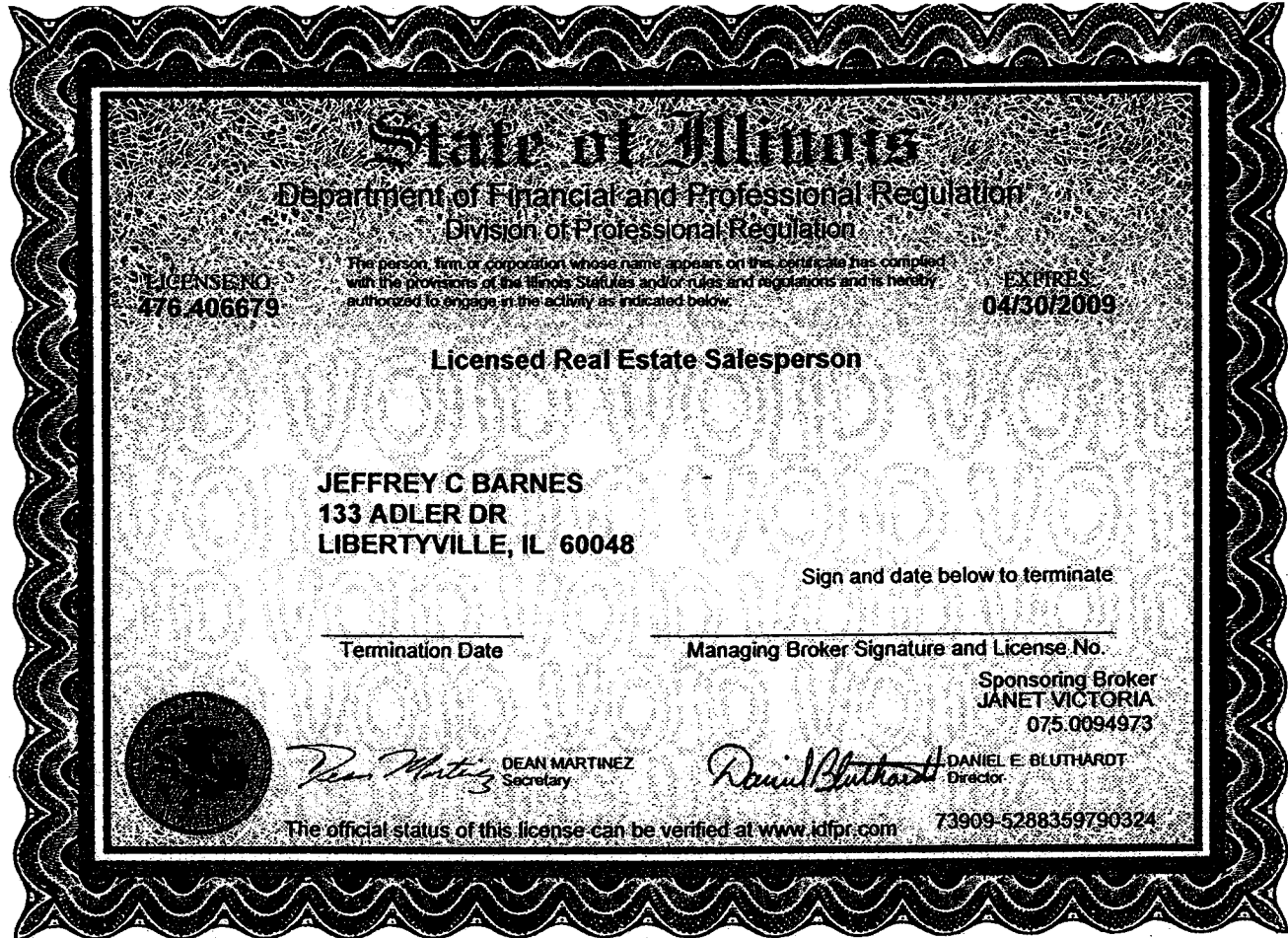
THIS IS TO CERTIFY THAT:	JEFFREY C BARNES
WAS ISSUED LICENSE NO:	076.0406679
ON:	12/23/2004
TO PRACTICE AS A LICENSED:	Licensed Real Estate Salesperson
LICENSED BY:	Examination
LICENSURE STATUS:	ACTIVE
EXPIRATION DATE:	04/30/2007
LICENSE DISCIPLINED:	No
EXAMINATION DATE:	N/A

OTHER: 45 Hours of pre-license real estate transaction coursework in keeping with the Illinois Real Estate License Act of 2000.

The information above is the only certification information provided by this office. If other information is needed, it must be obtained from the above-named individual or the agency or institution which initially generated the information.

YOUNG E. BROCKHOUSE
LICENSING AND EDUCATION MANAGER

SEAL



State of Illinois

Department of Financial and Professional Regulation
Division of Professional Regulation

LICENSE NO.
476.406679

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

EXPIRES
04/30/2009

Licensed Real Estate Salesperson

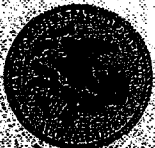
JEFFREY C BARNES
133 ADLER DR
LIBERTYVILLE, IL 60048

Sign and date below to terminate

Termination Date

Managing Broker Signature and License No.

Sponsoring Broker
JANET VICTORIA
075.0094973



Dean Martinez DEAN MARTINEZ
Secretary

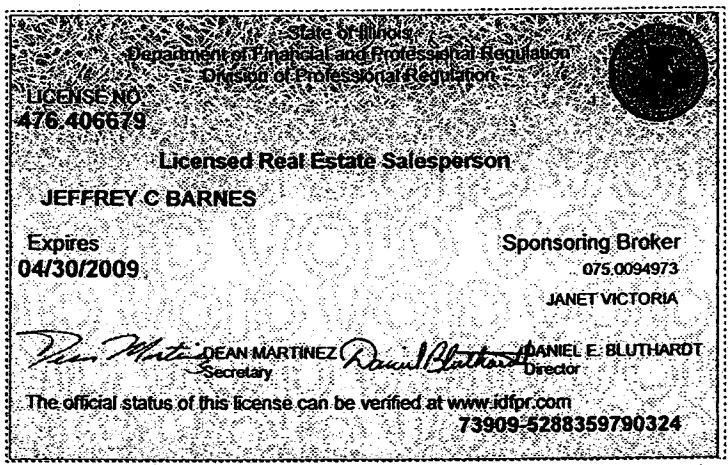
Daniel E. Bluthardt DANIEL E. BLUTHARDT
Director

The official status of this license can be verified at www.idfpr.com 73909-5288359790324

Cut on Dotted Line ✂

Please note that your salesperson license number has changed. The salesperson license number prefix has been changed from 076 to 476. Please see the following example illustrating the change:

Salesperson license number of 076.0123456 is now 476.123456



Cut on Dotted Line ✂

page 1 of 2 for
4 offenses, Question 1



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION

NOTE - This form must be submitted as part of an application packet

PERSONAL INFORMATION				
Last Name	First	Middle	Title	Suffix
BARNES	JEFFREY	CASSIUS		
Identify question number on form 0010-1 this explanation pertains to: 1				

EXPLANATION	
Offense	56.5-1401-B(2) Manufacturer/Delivery Controlled Substance
County	Cook State Illinois
Penalty/Disposition	11/17/1986 Sentenced/Served 4 years IL DOC (2 yrs Actual)
Date of Offense (MM/DD/YYYY)	11/15 1985 (Day Approximate)
	Have all sanctions been satisfied? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Description	1 of 4 counts related to substance abuse. See Attached Certified Record. Sentence served & released June 1990. Parole ended 1992.

EXPLANATION	
Offense	56.5-1401-C MAN/DEL Controlled Substance
County	Cook State Illinois
Penalty/Disposition	11/19/86 Sentenced 7 yrs to IL DOC.
Date of Offense (MM/DD/YYYY)	FEB 1 1986 (Approx)
	Have all sanctions been satisfied? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Description	2 of 4 counts related to substance abuse. See attached certified record. Sentence served concurrent to #5 ³ & 4 below. Parole ended 1992.

EXPLANATION	
Offense	56.5-704-D Possession Cannabis
County	Cook State Illinois
Penalty/Disposition	11/19/86 Sentenced 3 years IL DOC
Date of Offense (MM/DD/YYYY)	FEB 1 1986 (Approx)
	Have all sanctions been satisfied? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Description	3 of 4 counts related to substance abuse. See attached certified record. Sentence served after #1 (from 1989 to 1990) Parole ended 1992

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EXPLANATION	
Offense	56.5-1402-A(2) Possession Controlled Substance (coc)
County	COOK State IL
Penalty/Disposition	11/17/1986
Date of Offense (MM/DD/YYYY)	NOV 1985
Have all sanctions been satisfied? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Description 4 of 4 counts related to substance abuse. See attached certified record. Served after #1 (from 1989 to 1990). Parole ended 1992.	

EXPLANATION	
Offense	
County	State
Penalty/Disposition	
Date of Offense (MM/DD/YYYY)	Have all sanctions been satisfied? Yes <input type="checkbox"/> No <input type="checkbox"/>
Description	

EXPLANATION	
Offense	
County	State
Penalty/Disposition	
Date of Offense (MM/DD/YYYY)	Have all sanctions been satisfied? Yes <input type="checkbox"/> No <input type="checkbox"/>
Description	

EXPLANATION	
Offense	
County	State
Penalty/Disposition	
Date of Offense (MM/DD/YYYY)	Have all sanctions been satisfied? Yes <input type="checkbox"/> No <input type="checkbox"/>
Description	
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Attach additional sheets as necessary



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION

NOTE - This form must be submitted as part of an
application packet

PERSONAL INFORMATION				
Last Name	First	Middle	Title	Suffix
Barnes	Jeffrey	Cassius		

EXPLANATION
— NONE — for Questions 2-4.
NOTE: ALSO attached is a certificate of license for State of Illinois showing I have been an Active Real Estate Sales Associate for more than 2 years. Also is copy of my <u>new</u> new license for 5/1/07 to 4/30/09.
Thanks,
<i>[Signature]</i>

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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION

NOTE - This form must be submitted as part of an
application packet

APPLICANT INFORMATION

Applicant Name: Jeffrey C. Barnes Social Security Number: [REDACTED]

License Applying For: Real Estate Broker Application type (Check one):

Telephone Number: 847-331-2567 Exam Initial License

ATTEST STATEMENT

I have read the questions in this application and have answered them completely and truthfully to the best of my knowledge.

I have successfully completed the education required, if any, for the level of licensure, registration, or certification sought.

I have the amount of experience required, if any, for the level of licensure, registration, or certification sought.

I pledge to comply with the applicable standards of practice upon licensure, registration, or certification.

I understand the types of misconduct for which disciplinary proceedings may be initiated.

Signature: [Signature]

NOTARIZATION

The foregoing application was sworn to and subscribed before me this 3rd Day of April 2007

by Jeffrey C. Barnes [Signature]

Type or print name of applicant Signature of applicant

who is personally known to me or who has produced the following as identification.

DL ILLINOIS

Type of identification

Blanca Alvarez EXP 11/9/08

Signature of person taking acknowledgement

Notary Seal
(Rubber Stamp and Expiration)

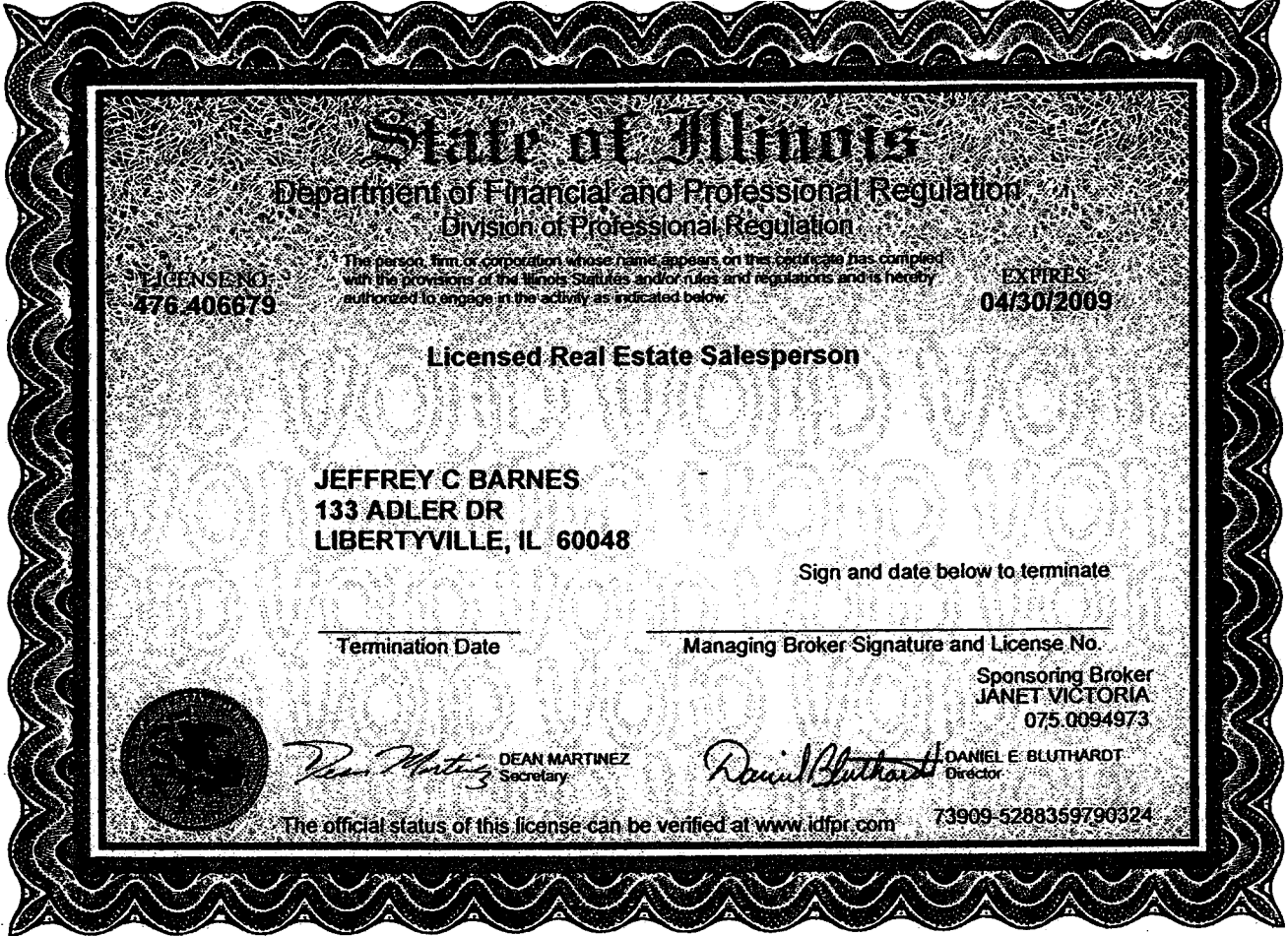


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State of Illinois
Department of Financial and Professional Regulation
Division of Professional Regulation

LICENSE NO.
476.406679

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

EXPIRES
04/30/2009

Licensed Real Estate Salesperson

JEFFREY C BARNES
133 ADLER DR
LIBERTYVILLE, IL 60048

Sign and date below to terminate

Termination Date

Managing Broker Signature and License No.

Sponsoring Broker
JANET VICTORIA
075.0094973



Dean Martinez DEAN MARTINEZ
Secretary

Daniel E. Bluthardt DANIEL E. BLUTHARDT
Director

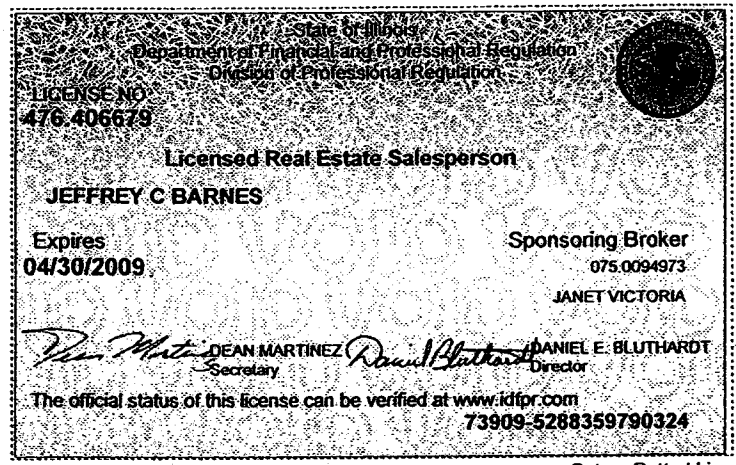
The official status of this license can be verified at www.idfpr.com

73909-5288359790324

Cut on Dotted Line

Please note that your salesperson license number has changed. The salesperson license number prefix has been changed from 076 to 476. Please see the following example illustrating the change:

Salesperson license number of 076.0123456 is now 476.123456



State of Illinois
Department of Financial and Professional Regulation
Division of Professional Regulation

LICENSE NO.
476.406679

Licensed Real Estate Salesperson

JEFFREY C BARNES

Expires
04/30/2009

Sponsoring Broker
075.0094973
JANET VICTORIA

Dean Martinez DEAN MARTINEZ
Secretary

Daniel E. Bluthardt DANIEL E. BLUTHARDT
Director

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73909-5288359790324

Cut on Dotted Line

State of Illinois
 Department of Financial and Professional Regulation
 Division of Professional Regulation

LICENSE NO.
 476.406679


Licensed Real Estate Salesperson
JEFFREY C BARNES

Expires
 04/30/2009

Sponsoring Broker
 075.0094973
 JANET VICTORIA

Dean Martinez DEAN MARTINEZ Secretary
Daniel E. Bluthardt DANIEL E. BLUTHARDT Director

The official status of this license can be verified at www.idfpr.com
 73809-5288359790324

 **State of Wisconsin**
 DEPARTMENT OF REGULATION AND LICENSING
 COMMITTED TO EQUAL OPPORTUNITY IN EMPLOYMENT AND LICENSING

REAL ESTATE SALESPERSON

No. 70114 - 094 Expires: 12/14/2008
JEFFREY C BARNES
 133 ADLER DR
 LIBERTYVILLE IL 60048

The named person has complied with Wisconsin Statutes and holds the credential specified.
 Signature: *Jeffrey C Barnes*

Florida -
 Please add WI license to
 my application. It was received
 May 2007.

Thanks,
J Barnes

Division of Real Estate
Thomas O'Bryant, Jr., Director
400 West Robinson Street, N801
Orlando, Florida 32801-1736

Phone: 407.481.5662
Fax: 407.317.7245
www.MyFlorida.com/dbpr
www.MyFloridaLicense.com

June 7, 2007

Mr. Jeffrey C. Barnes
133 Adler Drive
Libertyville, IL 60048

Dear Mr. Barnes:

Please be advised that you have been placed on the agenda to appear before the Florida Real Estate Commission at its meeting on ~~July 18, 2007~~. You are invited to bring individuals to speak on your behalf of your application for licensure as a real estate broker. Consideration of appearances begins at 8:15 a.m. ~~on the soonest thereafter~~.

You are invited to bring people to speak in person on your behalf.

Please be advised that if you are represented by counsel, it will be necessary for the department to be notified fifteen (15) days prior to the meeting from your attorney.

The meeting will be held at the Zora Neale Hurston Building, North Tower, Room 901, 9th Floor at 400 West Robinson Street, Orlando, Florida, 32801.

Note: Applicants who submitted the application before July 1, 2006 must sit at least once for the exam within a year of the department receiving their application.

Applications received on or after July 1, 2006 must sit and pass the exam within two (2) years before the application expires.

If you have any questions or require further assistance, please call Jeannie Adkinson at 407.581.5662.

Sincerely,



Jeannie Adkinson
Regulatory Specialist III
Operation Support Unit
Email: jeannie.adkinson@dbpr.state.fl.us

Jeffrey C. Barnes
133 Adler Drive
Libertyville IL 60048
847 549-7765h, 847-331-2567c

May 26, 2007

To: Florida Real Estate Commission
400 W. Robinson St., N801
Orlando FL, 32801

Re: Personal Disclosure and Recommendation for Real Estate Broker

Dear Commissioners:

I come before you as a Real Estate Broker applicant in the great state of Florida.

I have been convicted of Possession and Delivery of Controlled Substances (Cannabis and Cocaine) in November of 1986, Cook County IL, resulting from arrests in late 1985 and early 1986. As court records show, I was incarcerated with the Illinois Department of Corrections from 1986 through 1990, with parole ending in 1992. Thus ended a tragic chapter of substance abuse in my life.

I have been drug free over 21 years thanks to my incarceration, concurrent participation in AA and NA programs, and enrollment in a pioneer voluntary Substance Abuse program (within IL D.O.C.) as both a participant and later as Facilitator.

I am a responsible member of my church and community. I have 40 years experience as an Information Technology professional. Employment since 1990 includes 2 IT consulting engagements that were 5 and 6 years in length in positions of leadership and responsibility, with continued engagements in IT consulting as President of IL Corporation JCB Enterprises, Ltd. I've earned respect and recognition of my peers as Secretary and President of the Chicagoland Sybase Tools User Group (a non-profit technology organization) from 1994 through 2007.

I've been a licensed Salesperson in Illinois since 2004 and just obtained license in Wisconsin this May. I am an active member of the Realtor Association of Northwest Chicago, the Illinois Association of Realtors, and the National Association of Realtors. As such, you know I subscribe to the NAR Code of Ethics. I abide by all local, State and Federal laws governing our profession, with particular respect and enjoyment of those laws for fair housing and honest dealing. I'm studying to become an IL Broker, have begun the training for my ABR and CRS designations, joined the CRS council this April, and plan on becoming a GRI.

I respectfully ask that you look favorably upon my application.

Sincerely,


Jeffrey C. Barnes
Realtor ®

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86CR0069901

JEFFREY BARNES

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

56.5-1401-B(2)

F

MAN/DEL >10-30G COC

The following disposition(s) was/were rendered before the Honorable Judge(s):

01/29/86 TRANSFERRED TO SUBURBAN DIST FITZGERALD, RICHARD J.	02/18/86 0300
03/12/86 PLEA OF NOT GUILTY REYNA, RALPH	
03/12/86 DEFENDANT ARRAIGNED REYNA, RALPH	
03/12/86 CONTINUANCE BY AGREEMENT REYNA, RALPH	04/03/86 0247
04/03/86 CONTINUANCE BY AGREEMENT FIALA JR., EDWARD M.	04/21/86 0247
04/21/86 MOTION DEFT - CONTINUANCE - MD FIALA JR., EDWARD M.	05/21/86 0247
05/21/86 MOTION DEFT - CONTINUANCE - MD FIALA JR., EDWARD M.	06/11/86 0247
06/11/86 MOTION DEFT - CONTINUANCE - MD FIALA JR., EDWARD M.	07/11/86 0247
07/11/86 CONTINUANCE BY AGREEMENT ROHRER, GERALD T.	08/04/86 0247
08/04/86 MOTION DEFT - CONTINUANCE - MD ROHRER, GERALD T.	08/19/86 0247
08/19/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	09/03/86 0247
09/03/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	09/30/86 0247
09/30/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	10/30/86 0247
10/30/86 PLEA OF GUILTY DONEGAN, JAMES G.	
10/30/86 CONTINUANCE BY ORDER OF COURT DONEGAN, JAMES G.	11/10/86 0247

RECEIVED

APR 24 2007

DRE-OSU

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86CR0069901

JEFFREY

BARNES

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION

11/10/86 MOTION DEFT - CONTINUANCE - MD		11/17/86 0247
DONEGAN, JAMES G.		
11/17/86 PG JW FINDING GUILTY	C001	
DONEGAN, JAMES G.		
11/17/86 CASH BOND REFUND	B001	0205464
DONEGAN, JAMES G.		
11/17/86 DEF SENTENCED ILLINOIS DOC	C001	
4 YRS		
DONEGAN, JAMES G.		
11/17/86 CREDIT DEFENDANT FOR TIME SERV		
DONEGAN, JAMES G.		

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APR 24 2007

DRE-OSU

I hereby certify that the foregoing has been entered of record on the above captioned case.

Date 01/03/07

Dorothy Brown (is)

 DOROTHY BROWN
 CLERK OF THE CIRCUIT COURT OF COOK COUNTY

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86C33035801

JEFFREY C BARNES

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

56.5-1401-C

F

MAN/DEL CONT SUB

The following disposition(s) was/were rendered before the Honorable Judge(s):

07/15/86 CONTINUANCE BY ORDER OF COURT	08/25/86 0312
07/14/86 PLEA OF NOT GUILTY CAHILL, ROBERT P.	
07/14/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	08/25/86 0312
08/25/86 MOTION DEFT - CONTINUANCE - MD CAHILL, ROBERT P.	08/26/86 0312
08/26/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	09/16/86 0312
09/16/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	10/10/86 0312
10/10/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	11/17/86 0312
11/17/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	11/19/86 0312
1/19/86 PG JW FINDING GUILTY CAHILL, ROBERT P.	C001
1/19/86 CASH BOND REFUND TO ATTORNEY CAHILL, ROBERT P.	B001
1/19/86 CREDIT DEFENDANT FOR TIME SERV CAHILL, ROBERT P.	
1/19/86 DEF SENTENCED ILLINOIS DOC 7 YRS CAHILL, ROBERT P.	C001

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Date 01/03/07

Dorothy Brown (B)

DOROTHY BROWN

CLERK OF THE CIRCUIT COURT OF COOK COUNTY

RECEIVED

APR 24 2007

DRE-OSU

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86C33035901

JEFFREY C BARNES

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

56.5-704-D

F

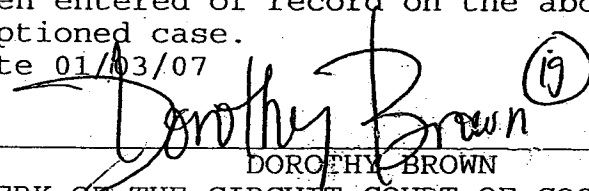
POS CAN >30-500G

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07/14/86 PLEA OF NOT GUILTY CAHILL, ROBERT P.	
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08/25/86 MOTION DEFT - CONTINUANCE - MD CAHILL, ROBERT P.	08/26/86 0312
08/26/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	09/16/86 0312
09/16/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	10/10/86 0312
10/10/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	11/17/86 0312
11/17/86 CONTINUANCE BY AGREEMENT WITTE, W. CHARLES	11/19/86 0312
11/19/86 PG JW FINDING GUILTY CAHILL, ROBERT P.	C001
11/19/86 CASH BOND REFUND TO ATTORNEY CAHILL, ROBERT P.	B001
11/19/86 DEF SENTENCED ILLINOIS DOC 3 YRS CAHILL, ROBERT P.	C001

I hereby certify that the foregoing has been entered of record on the above captioned case.

Date 01/03/07


DOROTHY BROWN
CLERK OF THE CIRCUIT COURT OF COOK COUNTY

RECEIVED

APR 24 2007

DRE-OSU

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86CR0069901

JEFFREY BARNES

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

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Charging the above named defendant with:

56.5-1401-B(2)

F

MAN/DEL >10-30G COC

The following disposition(s) was/were rendered before the Honorable Judge(s):

01/29/86 TRANSFERRED TO SUBURBAN DIST FITZGERALD, RICHARD J.	02/18/86 0300
03/12/86 PLEA OF NOT GUILTY REYNA, RALPH	
03/12/86 DEFENDANT ARRAIGNED REYNA, RALPH	
03/12/86 CONTINUANCE BY AGREEMENT REYNA, RALPH	04/03/86 0247
04/03/86 CONTINUANCE BY AGREEMENT FIALA JR., EDWARD M.	04/21/86 0247
04/21/86 MOTION DEFT - CONTINUANCE - MD FIALA JR., EDWARD M.	05/21/86 0247
05/21/86 MOTION DEFT - CONTINUANCE - MD FIALA JR., EDWARD M.	06/11/86 0247
06/11/86 MOTION DEFT - CONTINUANCE - MD FIALA JR., EDWARD M.	07/11/86 0247
07/11/86 CONTINUANCE BY AGREEMENT ROHRER, GERALD T.	08/04/86 0247
08/04/86 MOTION DEFT - CONTINUANCE - MD ROHRER, GERALD T.	08/19/86 0247
08/19/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	09/03/86 0247
09/03/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	09/30/86 0247
09/30/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	10/30/86 0247
10/30/86 PLEA OF GUILTY DONEGAN, JAMES G.	
10/30/86 CONTINUANCE BY ORDER OF COURT DONEGAN, JAMES G.	11/10/86 0247

RECEIVED

APR 24 2007

DRE-OSU

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86CR0069901

JEFFREY

BARNES

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION
 11/10/86 MOTION DEFT - CONTINUANCE - MD 11/17/86 0247
 DONEGAN, JAMES G.
 11/17/86 PG JW FINDING GUILTY C001
 DONEGAN, JAMES G.
 11/17/86 CASH BOND REFUND B001 0205464
 DONEGAN, JAMES G.
 11/17/86 DEF SENTENCED ILLINOIS DOC C001
 4 YRS
 DONEGAN, JAMES G.
 11/17/86 CREDIT DEFENDANT FOR TIME SERV
 DONEGAN, JAMES G.

I hereby certify that the foregoing has been entered of record on the above captioned case.

Date 01/03/07

Dorothy Brown (19)

DOROTHY BROWN

CLERK OF THE CIRCUIT COURT OF COOK COUNTY

RECEIVED

APR 24 2007

DRE - OSU

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86C33035801

JEFFREY C BARNES

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

56.5-1401-C

F

MAN/DEL CONT SUB

The following disposition(s) was/were rendered before the Honorable Judge(s):

07/15/86 CONTINUANCE BY ORDER OF COURT	08/25/86 0312
07/14/86 PLEA OF NOT GUILTY CAHILL, ROBERT P.	
07/14/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	08/25/86 0312
08/25/86 MOTION DEFT - CONTINUANCE - MD CAHILL, ROBERT P.	08/26/86 0312
08/26/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	09/16/86 0312
09/16/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	10/10/86 0312
10/10/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	11/17/86 0312
11/17/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	11/19/86 0312
11/19/86 PG JW FINDING GUILTY CAHILL, ROBERT P.	C001
11/19/86 CASH BOND REFUND TO ATTORNEY CAHILL, ROBERT P.	B001
11/19/86 CREDIT DEFENDANT FOR TIME SERV CAHILL, ROBERT P.	
11/19/86 DEF SENTENCED ILLINOIS DOC 7 YRS CAHILL, ROBERT P.	C001.

RECEIVED

APR 24 2007

DRE - OSU

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Date 01/03/07

Dorothy Brown (19)

DOROTHY BROWN

CLERK OF THE CIRCUIT COURT OF COOK COUNTY

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86C33035901

JEFFREY C BARNES

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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Charging the above named defendant with:

56.5-704-D

F

POS CAN >30-500G

The following disposition(s) was/were rendered before the Honorable Judge(s):

07/15/86 CONTINUANCE BY ORDER OF COURT	08/25/86 0312
07/14/86 PLEA OF NOT GUILTY CAHILL, ROBERT P.	
07/14/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	08/25/86 0312
08/25/86 MOTION DEFT - CONTINUANCE - MD CAHILL, ROBERT P.	08/26/86 0312
08/26/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	09/16/86 0312
09/16/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	10/10/86 0312
10/10/86 CONTINUANCE BY AGREEMENT CAHILL, ROBERT P.	11/17/86 0312
11/17/86 CONTINUANCE BY AGREEMENT WITTE, W. CHARLES	11/19/86 0312
11/19/86 PG JW FINDING GUILTY CAHILL, ROBERT P.	C001
11/19/86 CASH BOND REFUND TO ATTORNEY CAHILL, ROBERT P.	B001
11/19/86 DEF SENTENCED ILLINOIS DOC 3 YRS CAHILL, ROBERT P.	C001

RECEIVED
APR 24 2007
DRE - OSU

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Date 01/03/07

Dorothy Brown (19)

DOROTHY BROWN

CLERK OF THE CIRCUIT COURT OF COOK COUNTY

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86C22028401

JEFFREY BARNES

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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Charging the above named defendant with:

56.5-1402-A(2)

F

POSS CT SUB 30G COC

The following disposition(s) was/were rendered before the Honorable Judge(s):

06/11/86 DEFENDANT ARRAIGNED FIALA JR., EDWARD M.	
06/11/86 PLEA OF NOT GUILTY FIALA JR., EDWARD M.	
06/11/86 BOND TO STAND FIALA JR., EDWARD M.	
06/11/86 CONTINUANCE BY AGREEMENT FIALA JR., EDWARD M.	07/11/86 0247
07/11/86 CONTINUANCE BY AGREEMENT ROHRER, GERALD T.	08/04/86 0247
08/04/86 MOTION DEFT - CONTINUANCE - MD ROHRER, GERALD T.	08/19/86 0247
08/19/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	09/03/86 0247
09/03/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	09/30/86 0247
09/30/86 PRE-TRIAL INVESTIGATION ORDRD DONEGAN, JAMES G.	
09/30/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	10/30/86 0247
10/30/86 PLEA OF GUILTY DONEGAN, JAMES G.	
10/30/86 CONTINUANCE BY ORDER OF COURT DONEGAN, JAMES G.	11/10/86 0247
11/10/86 MOTION DEFT - CONTINUANCE - MD DONEGAN, JAMES G.	11/17/86 0247
11/17/86 PG JW FINDING GUILTY DONEGAN, JAMES G.	C001
11/17/86 DEF SENTENCED ILLINOIS DOC 4 YRS DONEGAN, JAMES G.	C001

RECEIVED

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PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 86C22028401

JEFFREY

BARNES

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11/17/86 CREDIT DEFENDANT FOR TIME SERV
DONEGAN, JAMES G.

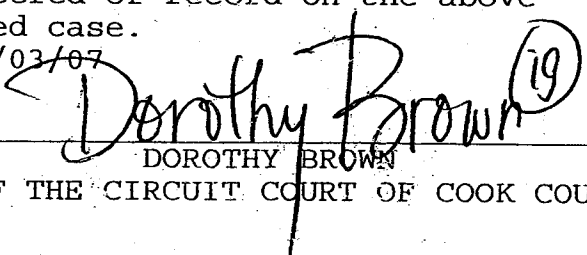
RECEIVED

APR 24 2007

DRE - OSU

I hereby certify that the foregoing has
been entered of record on the above
captioned case.

Date 01/03/07


DOROTHY BROWN

CLERK OF THE CIRCUIT COURT OF COOK COUNTY

Jeffrey C. Barnes
133 Adler Drive
Libertyville, IL 60048
847-331-2567 cell

May 26, 2007

Jeannie Adkinson, Regulatory Specialist II, OSU
Florida DBPR, Division of Real Estate
400 West Robinson Street, N801
Orlando FL, 32801-1736

RECEIVED

MAY 30 2007

DRE-OSU

Subject: Additional information for Real Estate Broker application.

Dear Jeannie:

Enclosed please find:

- 1) Copy of your information request dated May 8, 2007, 2 pages.
- 2) Police reports from times of arrest:
 - a) 11/17/1985 Manufacture/Delivery of Controlled Substance: Actual date was 11/19/1985 by Officer T. Evans #051 of Rolling Meadows IL Police Department. 3 pages.
 - b) 2/1986 Manufacture/Delivery of Controlled Substance. Actual charge was Possession of Controlled Substance, report dated 2/18/1986 by Officer Secler #145 of Arlington Heights IL Police Dept. 6 pages.
- 3) Letters of Recommendation from persons knowing of my honesty, truthfulness, good character and good reputation. provided by: 1 page each for 6 pages
 - a) Rev. J.D. Millar, my pastor at First Presbyterian Church of Libertyville
 - b) Tim Waterloo, President of OAK Enterprises, primary broker of my IT consulting services since 2005, fellow member of Independent Computer Consultants of America (ICCA),
 - c) Bill Guttman, AVP of GENRE Insurance: friend/co-worker since 1992,
 - d) Roseanna Conlon Harris, Managing Director Charles Schwab & Co: friend/co-worker since 1970.
 - e) Pastor Christopher Barnes, brother.
 - f) Jeff Barnes, (myself) a personal statement to the Commission
- 4) Please update my application to include my newly obtained Wisconsin Sales Person license #70114-94. Please note WI was given the same criminal history court dispositions that FL has received. 1 page

I'll call to arrange a personal appearance before the committee as you recommend. I've emailed you a copy of this package to expedite. Also, my Fingerprints were re-taken and re-sent to Promissor in Denver using Florida provided cards on 4/23/07; please advise if still not received and I'll follow up with Promissor.

Thank you for your time and effort,



Jeff Barnes, 847-331-2567 cell

IL Real Estate SalesPerson license # 076.0406679
WI Real Estate Salesperson license # 70114-94

ROLLING MEADOWS POLICE DEPARTMENT
OFFENSE / INCIDENT REPORT

DATE/TIME 0432	CLASSIFICATION Possession of controlled substance/Traffic	INDEXED BY	DATE 11/19/85	CASE NUMBER 85-14513
REPORTING OFFICER Sgt. Kenneth	IND. <input type="checkbox"/> RES. <input checked="" type="checkbox"/> BUS. <input type="checkbox"/> OTHER <input type="checkbox"/>	6. DATE & TIME SECURED 11/19/85 0425	7. DATE & TIME POLICE ARRIVED 11/19/85 0425	
JUVENILE CASE DNA	10. CONNECT W/CASE DNA	JUVENILE CONTACT DNA	11. ARREST NUMBER 85-14513	
13. RESIDENCE ADDRESS Rolling Meadows Police Department	14. RES. PHONE 255-2416	18. RES. PHONE	19. BUS. PHONE 255-2416	
17. RESIDENCE ADDRESS	21. RESIDENCE ADDRESS	22. RES. PHONE	23. BUS. PHONE	
25. RESIDENCE ADDRESS Rolling Meadows Police Department	26. RES. PHONE	27. BUS. PHONE 255-2416		
29. RESIDENCE ADDRESS SAMB	30. RES. PHONE	31. BUS. PHONE SAME #		
33. RESIDENCE ADDRESS 136 N. Wilke Road, Palatine	34. RES. PHONE 934-8350	35. BUS. PHONE DNA		
38. RESIDENCE ADDRESS B652-4234-7305	39. RES. PHONE	40. BUS. PHONE		
43. METHOD/PROPERTY	44. METHOD/PERSON	49. MODEL passenger	50. STYLE 2-door	
47. YEAR 1968	48. MAKE Buick	51. VIN. 494878B910478	56. TOWED TO 909-Rohlfing Road	
53. LIC/YEAR 1986	54. LIC/STATE Illinois			
59. HOLD FOR COURT 12/10/85				

DATE 11/19/85 TIME 0920 HOURS

FILE

037

Impounded:

3) white paper packets containing a white powdery substance, field tested positive for cocaine, (to be sent to Herlab for analysis).

10) 6.00 U.S.C. in the following denominations: Ten (10) \$100.00 bills, Ten (10) \$50.00 bills, Twenty-five (25) \$10.00 bills, One (1) \$1.00 bill, One (1) \$0.50 bill, One (1) \$1.00 bill. (Hold for confiscation).

11) (1) silver ROLEX watch (Hold for confiscation).

12) ESCORT radar detector, serial #0927086 (Hold for confiscation).

Reporting officer, while on patrol, clocked the above vehicle traveling westbound Algonquin Road (McCart) at 53 MPH. in a 40 MPH. zone. Upon stopping above vehicle at 1786 Algonquin Road (7-11), Reporting officer spoke with offender/BARNES and obtained his drivers license. Upon running offender's file through the ALABAMA OFFICERS office, reporting officer was advised by Central that he has a suspended license. Reporting officer placed offender under arrest and placed him in squad #183.

While enroute to the station, OFFICER COUTTS informed reporting officer that he had located a plastic bag containing twenty three (23) individually wrapped packets of paper containing a white powdery substance under front seat during an inventory search prior to towing the vehicle.

On station, OFFICER KAPLAN field tested the white powder, which tested positive for cocaine. OFFICER contacted A.S.A. WINNINGER who approved Felony charges of possession with intent to deliver. While patting offender, OFFICER #051

ROLLING MEADOWS POLICE DEPARTMENT

REPORTED DATE 11/19/85	TIME 0432	INDEXED BY JC	DATE 11/19/85	CASE NUMBER 85-14513
CASE NUMBER 2	OFFENSE, OCCURRENCE, OR INCIDENT Possession of controlled substance/traffic	ARRESTED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	ARREST NUMBER 85-14513	SUPPLEMENT <input type="checkbox"/>

CONTINUATION

down offender, reporting officer located a small glass bottle with a small black spoon containing a white powder which field tested positive for cocaine. A.S.A. WINNINGER was recontacted and approved Class X Felony charges, possess with intent to deliver over 30 grams.

The above listed money and watch were confiscated from offender in connection with the Seizure Act (receipt left with offender's belongings) and placed in Evidence locker. The above listed white powdery substance was placed in an Evidence locker to be sent to the Crime Lab for analysis. Offender was placed in Cell #2 to be taken to Skokie for a bond hearing.

Offender's vehicle towed by PALELLAS and release was not given to offender at this time.

Charges:

1. X8-405-723, exceeding posted speed limit
2. X8-405-724, driving while license suspended
3. X8-405-725, unlawful use of license/failure to surrender-suspension
4. Unlawful possession of controlled substance with intent to deliver more than 30 grams, 56½ 1401(a)2

ASSIGNED OFFICER: EVANS, T. OFFICER #051

ASSIGNED OFFICER: WANDERSEE, OMDR.

SUPERVISOR APPROVING: : FILE

AHP-200-9A

#86-03442

ARLINGTON HEIGHTS POLICE DEPARTMENT

GENERAL CASE REPORT

1. Offense Classification Possession Controlled Substance		2. Offense Code 1812	3. District	4. Beat 1114	5. GEO-Code	6. Case Status 1
7. Reclassification (Office Use Only)		8. (Office Use Only) 1112				
9. Location of Occurrence Rt. 62 - Kennicott to Wilke		10. Piece Code 238	11. Day of Week Tuesday	12. Month Day Year 02 18 86	13. Time 0401	
14. Complainant Name Officer Secler #145		15. Complainant Phone Number 253-2340		16. Time Received 0401	17. Time Dispatched 0402	
18. Complainant Address 33 S. Arl. Hts Rd		19. Race	Sex	V.O.B.	20. Time Arrived 0402	21. Time Closed 0808
22. Reported By SAA		23. Address			24. Phone	
25. How Call Received <input type="checkbox"/> Phone <input type="checkbox"/> C.B. Radio <input type="checkbox"/> Desk <input checked="" type="checkbox"/> Police		26. Date Reported Month 2 Day 18 Year 86		27. Property Code	28. Property Value 8	

ALL INFORMATION, DESCRIPTIONS AND STATEMENTS IN THIS ENTIRE REPORT ARE APPROXIMATIONS OR SUMMARIZATIONS UNLESS INDICATED OTHERWISE

No. Vic. 29.	Victim's Name (Firm Name if Business)	Race	Sex	V.O.B.	Victim's Occupation	Business Phone	Time Available		
30.	Victim's Address Apt. No. (if Business Name Company Representative)					Home Phone	<input type="checkbox"/> Sober <input type="checkbox"/> Inj		
31.	Parent/Guardian, if Juv. <input type="checkbox"/> Contacted <input type="checkbox"/> DNA	Race	Sex	Home Address		Apt. No.	Home Phone		
							Business Phone		
32.	Person Who <input type="checkbox"/> Discovered <input checked="" type="checkbox"/> Witnessed Crime	Race	Sex	Home Address		Apt. No.	Home Phone		
	Officer McGuire			RMPD			Business Phone		
33.	Name of Witness	Race	Sex	Home Address		Home Phone	Business Phone		
	Officer Milian			AHPD					
34.	Name of Witness	Race	Sex	Home Address		Home Phone	Business Phone		
	Officer Langguth			AHPD					
35.	Offenders Name UNK (or describe Clothing etc.)	Race	Sex	Age	Height	Weight	Eyes	Hair	34. Offense Number
	Jeffrey C. Barnes	1	M	38	511	145	Blu	Brn	86-3442
36.	Offenders Address	Complexion	Flesh Message		Alles, Marks, Scars, Deformities Etc.				
	136 N. Wilke, Palatine	Med	<input type="checkbox"/> Yes <input type="checkbox"/> No		DOB 10-26-47 SS: [REDACTED]				
37.	Offenders Vehicle	Year	Make	Body Style	Color	State Lic. No.	State	Year	Other Identifying Marks
	Used <input checked="" type="checkbox"/> Stolen <input type="checkbox"/>	71	BMW	2002	Tan	HLN136	IL	86	Beater-Broken Windows

38. Narrative

Charges: 56 1/2 1402 (a) (2) Possession of Controlled Substance, 95 1/2 11-501a? DUI

95 1/2 11-709 Improper Lane Usage, 95 1/2 3-413 Improper Display of License Plates.

Court: 3-24-86 in Skokie at 900

Bond: 7

On patrol NW/B behind the above auto, which had passed my squad earlier, I noticed a front license plate not on the car. As I followed the auto I noticed it was driving in both lanes of NW/B Rt. 62 at the same time.

As the car got to Wilke Rd I turned on all emergency lights and stopped the car

37. Copies of Report To: <input type="checkbox"/> Patrol <input type="checkbox"/> Traffic <input type="checkbox"/> Other		38. Arrest Made <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		39. Arrest <input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juv.		40. Arrest No.	
41. Reporting Officer Secler	No. 145	42. Rpt. Dv. 01	43. Approving Supervisor <i>[Signature]</i>		Date 2/18	44. Lead/Note No.	45. Date Sent
46. Assisting Officer Milian/Langguth/McGuire	No.	47. Rpt. Dv.	48. Report/Review Officer <i>[Signature]</i>		Date 1	49. Stolen Auto <input type="checkbox"/> Yes <input type="checkbox"/> No	50. Stolen Auto Code

Continuation of Narrative

At the Plaza Del Prado shopping center.

I approached the auto and upon asking for the drivers license, I smelled a strong odor of alcohol coming from the car. As I looked into the auto, I saw a amber colored bottled hanging on the outside of the drivers front left pocket, which appeared to be containing a white powder.

At this time I asked the driver to exit the auto and took the vial into my possession.

I then gave Mr. Barnes sobriety tests which he failed with Officer McGuire RMD present. Mr. Barnes was advised of his rights per the DUI laws and placed under arrest.

I then searched the auto with Officer Miljan, and found a canvas Black bag under the drivers seat. Inside the canvas bag was a bundle of USC comingled with numerous plastic bags containing a white powder, a vial containing a white powder, a glass pipe, and a white bottle containing a unknown liquid.

I then went to the subject, Barnes, and had him patted down. At this time a white packet containing a white powder was found in his right rear pants pocket.

Mr. Barnes was advised he was under arrest and advised of his rights per Miranda, and transported to this dept.

Officer Morris stood by until the auto could be removed from the Shopping center by Hillside Towing.

DNA <input type="checkbox"/>	Victim Injured <input type="checkbox"/> Yes <input type="checkbox"/> No	Location of Victim on Premises	Nature of Injuries and Location of Body		If Victim Hospitalized - Where	
	Weapons <input type="checkbox"/> Handgun <input type="checkbox"/> Rifle <input type="checkbox"/> Shotgun	<input type="checkbox"/> Used <input type="checkbox"/> Displayed	<input type="checkbox"/> Knife or Other Cutting Instrument	<input type="checkbox"/> Other Weapon (Specify)	Cal/Gauge	Color <input type="checkbox"/> Blue Steel <input type="checkbox"/> Other <input type="checkbox"/> N.P. or Chrome <input type="checkbox"/> UNK
	Possible Point of Entry	Possible Point of Exit	Other Means of Attack (Possible Tools Used)		How Means of Attack Used	
	Burglar Alarm on Premises <input type="checkbox"/> Yes <input type="checkbox"/> No	Alarm Circumvented <input type="checkbox"/> Yes <input type="checkbox"/> No	If Safe Burglary - Method Used <input type="checkbox"/> Pried <input type="checkbox"/> Drilled		If Residence Where Were Occupants	
UNK <input type="checkbox"/>	Unusual Characteristics of Crime (Trademarks)					Type of Property Damaged

Vehicle or Trailer	Year	Make	Body Style	Color	State Lic. No.	State	Year	Other Identifying Marks
Describe Property Taken in Narrative Total Values Here	Money	Jewelry	Furs	Clothing	Office Equipment	T.V. Radio Stereo Etc.		
<input type="checkbox"/> DNA <input type="checkbox"/> UNK	Household Item	Consumer Item	Firearms	Narcotics/Dangerous Drugs	Other			None
Describe Property Received in Narrative Total Values Here	Money	Jewelry	Furs	Clothing	Office Equipment	T.V. Radio Stereo Etc.		
<input type="checkbox"/> DNA <input type="checkbox"/> UNK	Household Item	Consumer Item	Firearms	Narcotics/Dangerous Drugs	Other			None
Property Other (State Briefly)								

AHP-100-16A

CONTINUATION SHEET

ARLINGTON HEIGHTS POLICE DEPARTMENT

1. Page 2	Of 1	Pages 2	2. Type Offense Continued Poss. Controlled Substance	3. Offense Number 86-3442
4. Day of Week Tue	5. Date of Continuation Mo. 2 Day 18 Year 86		6. Time of Continuation 0800	7. Case Status Code
9. <input checked="" type="checkbox"/> Form Used as Continuation For Current Report			10. <input type="checkbox"/> Form Used as Follow-up Investigation of Supplementary Information	11. Investigation Continuing <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

On station Barnes was asked to take the breathalyzer test which registered a BAC of .05% given by Officer Langguth. I then transported the Barnes subject to NWCH for a blood and Urine sample which he agreed too.

All items were placed into evidence, and the proper items sent to the labs for analysis.

I contacted States Attorney Joseph Kazmierski who advised me to only sign a complaint for the Possession Of Controlled Substance and the traffic charges.

Officer Eichinger and I transported Mr. Barnes to Skokie for the judge to set a bond for the charges.

Copies of This Report To: <input type="checkbox"/> Detectives <input type="checkbox"/> Juvenile			13. Report/Review	Date
<input type="checkbox"/> Patrol <input type="checkbox"/> Traffic <input type="checkbox"/> Other				
Reporting Officer Sole	Officer No. 145	15. Rptg. Div. 01	16. Approving Supervisor <i>[Signature]</i>	Number 1526
17. Date and Time 2/18/86 08:50				

CONTINUATION SHEET

ARLINGTON HEIGHTS POLICE DEPARTMENT

1. Page 1	Of 1	Pages	2. Type Offense Continued POS. CONTROL SUBSTANCE	3. Offense Number 86-3442
4. Day of Week TUE	5. Date of Continuation MO. 2	6. Time of Continuation DAY 18 Year 86 1215 Hrs	7. Case-Status Code	8. Disposition Code
9. Form used as Continuation of Current Report <input type="checkbox"/>		10. Form used as Follow-up Investigation or Supplementary Information <input checked="" type="checkbox"/>		11. Investigation Continuing <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

OFFENDER: JEFFREY C. BARNES ^{M/W}

DOR 10-26-47

MR. BARNES WAS TRANSPORTED BY OFFICER EICHINGER AND I TO SYOKIE COURT FOR A BOND HEARING. JUDGE REYNA SET MR. BARNES BOND AT \$5000.00 AND TURNED HIM OVER TO COOK COUNTY DEPTILES UNTIL HIS BOND IS MADE.

12. Copies of This Report For: <input type="checkbox"/> Detectives <input type="checkbox"/> Juvenile			13. Report/Review		Date
<input type="checkbox"/> Patrol <input type="checkbox"/> Traffic <input type="checkbox"/> Other					
14. Reporting Officer SCLG	Officer No. 145	15. Rptg. Div. 01	16. Approving Supervisor W. J. Carter	Number 1503	17. Date and Time 2/18/86 1555AB

ARLINGTON HEIGHTS POLICE DEPARTMENT
COURT APPEARANCE RECORD

TRAFFIC COURT

COURT DISTRICT 24

CRIMINAL OF JUVENILE COURT

LOCATION Skokie

1. Officer Name <u>Section</u>		Star No. <u>145</u>	2. Total No. of cases <u>4</u>	3. Time In: <u>9:00</u>
6. Day <u>THUR</u>	7. Date <u>10-30-86</u>	8. Name of Judge <u>DONOGAN</u>		4. Time Out: <u>12:30</u>
9. Name of Prosecutor/State's Atty. <u>KLAPMAN</u>		10. Name of Defense Attorney <u>DAVIS</u>		5. Total Time: <u>3:30</u>

11. Traffic Court Dispositions							
Plead Guilty	Found Guilty	Supervision	Fine	Traffic School	Dismissed	S.O.L.	Other

12. Name of Defendant <u>TERRELL C. BARNES</u>	13. Case Report No. <u>86-3442</u>	15. Evidence
---	---------------------------------------	--------------

TYPE OF CHARGE	CHAPTER & SECTION NO.	Continuance		Supervision: (Length of time)	Probation: (Length of time)	Fine: (Amount)	Incarceration: (Length of term)	Dismissed	Other	Return to Court	Dispose of	Does Not Apply
		Plead Guilty	Found Guilty									
<u>P.C.S.</u>	<u>56 1/2-1402</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>									
<u>DUI</u>	<u>95 1/2-11-214</u>							<input checked="" type="checkbox"/>				
<u>CRIMINAL VIOLENCE</u>	<u>95 1/2-11-709</u>							<input checked="" type="checkbox"/>				
<u>DUI DISPLAY</u>	<u>95 1/2-3-417</u>							<input checked="" type="checkbox"/>				
E.												

CONTINUED FOR SENTENCING

16. CIRCLE APPLICABLE CHARGE(S) CONTINUED: <u>(A)</u> <u>(B)</u> <u>(C)</u> <u>(D)</u> E.	17. Continued to: (date) <u>11-10-86</u>
18. Time: <u>9:00</u>	19. Location: <u>Skokie</u>

20. Officer Signature: <u>[Signature]</u>	21. Date: <u>10-30-86</u>	22. Court Monitor Signature	23. Date
--	------------------------------	-----------------------------	----------

ARLINGTON HEIGHTS POLICE DEPARTMENT
COURT APPEARANCE RECORD

TRAFFIC COURT

COURT DISTRICT 2

CRIMINAL or JUVENILE COURT

LOCATION 56415

1. Officer Name <u>S8662</u>		Rt# No. <u>145</u>	2. Total No. of cases <u>4</u>	3. Time In: <u>900</u>
6. Day <u>MON</u>	7. Date <u>11-17-86</u>	8. Name of Judge <u>DUNNEGAN</u>		4. Time Out: <u>1030</u>
9. Name of Prosecutor/State's Atty. <u>KLAPMAN</u>		10. Name of Defense Attorney <u>DAVIS</u>		5. Total Time: <u>1:30</u>

11. Traffic Court - Dispositions							
Plead Guilty	Found Guilty	Supervision	Fine	Traffic School	Dismissed	S.O.L.	Other

12. Name of Defendant <u>JEFFERY C. BARNES</u>			13. Case Report No. <u>86-3442</u>				15. Evidence						
14. Criminal Court Dispositions		*Continuance	Fled Guilty	Found Guilty	Supervision: (length of time)	Probation: (length of time)	Fine: (Amount)	Incarceration: (length of term)	Dismissed	Other	Return to Court	Dispose of	Does Not Apply
TYPE OF CHARGE	CHAPTER & SECTION NO.												
<u>P.C.I.S.</u>	<u>562 1402</u>		<u>XX</u>					<u>4 YRS</u>					<u>X</u>
<u>DUI</u>	<u>954 11-5010</u>								<u>X</u>				
<u>C. LAW VIOL</u>	<u>11-709</u>								<u>X</u>				
<u>DISORDERLY DISPLAY</u>	<u>3-413</u>								<u>X</u>				

16. CIRCLE APPLICABLE CHARGE(S) CONTINUED: A. B. C. D. E.

17. Continued to: (date)

18. Time: _____ 19. Location: _____

20. Officer Signature: [Signature] 21. Date: 11-17-86

22. Court Monitor Signature: _____ 23. Date: _____



Evangelical
Free Church 700 W. Liberty St. • Wauconda, Illinois 60084 • 847.526.8254 • www.efcw.net
of Wauconda *Touching Our Community to Change the World*

May 25, 2007

To Whom It May Concern:

I am happy to provide a character reference for my brother Jeffrey Barnes. Obviously, I have known him all of my life. However, there are certain qualities that Jeff possesses that make this more than just a family member reference. Therefore, I believe that he will excel in and be an asset to the real estate industry.

First, Jeff possesses an uncanny intelligence and the ability to train himself in many fields. He is a self-taught musician, doing so well in piano and composition that he was admitted to the Chicago Conservatory College of Music. He taught himself so much in the computer industry that he quickly went from a position as a junior computer operator for Montgomery Wards at the onset of the computer industry to managing of one of the largest data centers in Chicago within a year. He quickly became a highly sought after computer consultant. Then, after about five years out of the industry, Jeff was able to update his skills to again become a valuable computer consultant.

Second, Jeff possesses unique customer/client relations skills. In his consulting career, he has served certain very challenging clients with aplomb and grace that turned what could have been a tumultuous relationship into a productive one. In other very challenging relationships, Jeff has shown extreme perseverance and a commitment to serve others. He has had to deal with people from a wide range of backgrounds, ethnicities and economic strata.

Third, Jeff has had to overcome many adversities in his life to becoming the man he is today. Rising out of a very difficult family situation and overcoming ensuing personal struggles, Jeff is now a successful business person with an excellent work ethic, solid character and honesty, and deeply committed to serving his clients while upholding the highest ethics of the real estate industry.

Sincerely,


Pastor Christopher Barnes

CHRISTOPHER BARNES
Pastor of Leadership & Equipping

TYD ROGERS
Pastor of Student Ministries



YAHOO! MAIL

Print - Close Window

From: "Roseanna Conlon Harris" <roastzanna@hotmail.com>
To: jcbarnes411@sbcglobal.net
Subject: Reference
Date: Thu, 24 May 2007 20:41:37 -0700

To Whom it may Concern:

I have known Jeff since October of 1972, when we first began to work together in the Credit Systems department at Montgomery Ward on State Street in downtown Chicago. Subsequent to that experience, we worked together at CF Industries in Long Grove, IL from 1976 to 1981.

In addition to our professional relationship, we became friends, and that friendship has spanned decades.

I can attest to Jeff's honesty and altruism. I knew him through both good and difficult times and was sincerely heartened at the way he stepped up and moved through circumstances that might have daunted anyone with less character.

I trust you will grant him the licence he is seeking, I know he wil put it to good use.

If there are questions I can be reached at (415) 667-1318. I will be out of the country on business until June 4th but will be occasionally be checking email at roseanna.c.harris@schwab.com.

Thanks you in advance for your consideration of Jeff's request.

Roseanna Conlon Harris
3253 Brookwood Drive
Lafayette, CA 94549
(925) 946-0760

PC Magazine's 2007 editors' choice for best Web mail—award-winning Windows Live Hotmail.

May 21, 2007

To Whom It May Concern:

I have known and worked with Jeff Barnes for over 10 years on various software projects. He has proven to be a very hard and diligent worker who always goes the extra mile to meet his commitments.

Moreover, Jeff works very well with others, is a team player and posses a great amount of integrity. Jeff is also very intelligent and frequently comes up with creative ways to solve complex problems.

Finally, please call me at any of the numbers below if you would like to discuss Jeff's capabilities in further detail.

Sincerely

Bill Guttman

Assistant Vice President GenRe

Cell: 203-313-5137

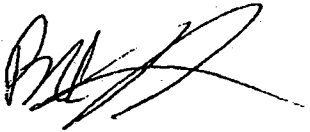
Office: 203-328-6102

Home: 860-669-4516

Fax: 509-693-9880

GenRe Email: WGuttma@GenRe.Com

Cell Email: 2033135137@vtext.com





First Presbyterian Church

219 WEST MAPLE AVENUE

LIBERTYVILLE, IL 60048
Office (847) 362-2174
Fax (847) 362-7691
FirstPresLibertyville.org

Tuesday, May 08, 2007

To Whom It May Concern:

It is with pleasure that I write this letter to attest to the good name and character of Mr. Jeff Barnes. Jeff is a member of this congregation and I have known him as his pastor since 2002.

During this time, I have come to know Jeff as a caring and selfless individual whose countless acts of kindness within this congregation have been both low key and remarkable.

At no time have I ever had reason to doubt the strength of Jeff's character or the consistency of his fine moral fiber.

If any additional information may be needed, please do not hesitate to give me a call.

Sincerely,

A handwritten signature in cursive script that reads "James Dean Millar".

The Rev. James Dean Millar
Associate Pastor

Oak Enterprises

Quality Computer Consultants

800 Roosevelt Rd., Bldg. E, Glen Ellyn, IL 60137 (630) 858-4443 www.oakenterprises.com

April 4, 2007

To Whom It May Concern:

I am pleased to write this letter attesting to the good character and reputation of Jeff Barnes. I met Jeff in early 2005. Our company partnered with Jeff to perform computer consulting services for our client shortly thereafter.

In my dealings with Jeff I have found him to be a man of his word (and an outstanding software developer!). Jeff delivered an excellent service at an excellent value which resulted in a satisfied client. I know this occurred because Jeff expects it of himself. In our business, this is a sign of character.

Jeff has a very good reputation for technical knowledge and fair business dealings within the IT community of Chicago. I am happy to serve as a reference for such. I welcome any calls to discuss my experience of Jeff Barnes. I can be reached at 630-545-4885.

Sincerely,



Tim Waterloo
President

Division of Real Estate
Thomas O'Bryant, Jr., Director
400 West Robinson Street, N801
Orlando, Florida 32801-1736

Phone: 850.487.1395
Fax: 407.317.7245
www.MyFlorida.com/dbpr
www.MyFloridaLicense.com

May 8, 2007

Mr. Jeffrey C. Barnes
133 Adler Drive
Libertyville, IL 60048

Dear Mr. Barnes:

It has been determined that your application for licensure as a real estate broker will be presented to the Florida Real Estate Commission for consideration.

Our records reflect that you have not submitted had your fingerprints submitted electronically through promissory.

Please provide a copy of the police (each) report that officer wrote up at the time of arrest) and the final outcomes regarding each charge listed below.

1. 11/17/1985 - Manufacture/Delivery of a Controlled Substance
2. 02/1986 - Manufacture/Delivery of a Controlled Substance

Upon receipt of the requested information, you will be scheduled for an appearance before the Florida Real Estate Commission.

To assist the Commission in determining your eligibility for licensure and to support your application, you are required to furnish at least three (3) letters of recommendation from persons who know of your honesty, truthfulness, trustworthiness, good character, and good reputation. **Two** of the recommendation letters must be from individuals who are not related to you.

Please mail the recommendation letters, for distribution to the Commission members for the regularly scheduled commission meeting (date to be determined). This will ensure that the Commissioners will have the opportunity to review your recommendation letters prior to the regularly scheduled meeting.

Please be advised that if you are represented by counsel, it will be necessary for the department to be noticed fifteen (15) days prior to the meeting from your attorney.

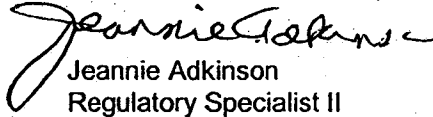
The meeting will be held at the Zora Neal Hurston Building, 400 West Robinson Street, North Tower, Room 901, 9th Floor, Orlando, Florida 32801. Consideration of appearances will begin at 8:15 a.m., or soonest thereafter. If there is any change in the appearance time, you will be notified promptly.

It is strongly recommended that you appear in support of your application. If you wish to attend, please notify us **in writing** as soon as possible. In addition to supplying letters/materials, the Commission would like to invite you to bring individuals to speak on your behalf.

Please be advised that your application will expire two (2) years from the received date, in accordance with Chapter 475.181(2), Florida Statutes.

If you have any questions or require further assistance, please call Jeannie at 407.481.5662.

Sincerely,



Jeannie Adkinson
Regulatory Specialist II
Operations Support Unit
Email: jeannie.adkinson@dbpr.state.fl.us



1 DWD

FILED
07 DEC 19 PM 4:32

DIVISION OF
ADMINISTRATIVE
HEARINGS

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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JEFFREY C. BARNES,
Petitioner,

vs.

CASE NO. 07-4522

FLORIDA REAL ESTATE
COMMISSION,
Respondent.

_____ /

FINAL HEARING

The above-entitled matter came on to be heard before the Honorable DON W. DAVIS, Administrative Law Judge, at the Division of Administrative Hearings, DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida, on the 11th day of December, 2007, commencing at 9:30 a.m.

Reported by:



ORIGINAL

MARLO D. FARNSWORTH

Certified Shorthand Reporter

1 APPEARANCES OF COUNSEL:

2 On behalf of the Petitioner:

3 JEFFREY C. BARNES, *pro se*
4 133 Adler Drive
5 Libertyville, IL 60048
6 (847) 331-2567

7 On behalf of the Respondent:

8 GARNETT CHISENHALL, ESQ.
9 Assistant Attorney General
10 Office of the Attorney General
11 PL-01 The Capitol
12 Tallahassee, FL 32399-1050
13 (850) 414-3300

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INDEX TO WITNESSES

WITNESS	PAGE
CHRISTOPHER BARNES (via telephone)	
Direct Examination by Mr. Barnes	11
Cross Examination by Mr. Chisenhall	13
Redirect Examination by Mr. Barnes	14
JANET VICTORIA (via telephone)	
Direct Examination by Mr. Barnes	21
Cross Examination by Mr. Chisenhall	23
Redirect Examination by Mr. Barnes	25
Recross Examination by Mr. Chisenhall	27
J.D. MILLAR (via telephone)	
Direct Examination by Mr. Barnes	33
Cross Examination by Mr. Chisenhall	37
Redirect Examination by Mr. Barnes	41
JEFFREY C. BARNES	
Direct Testimony	45
Cross Examination by Mr. Chisenhall	52

* * * *

E X H I B I T S

NUMBER	MRKD	RCVD
For the Petitioner:		
1	09	09
For the Respondent:		
1 (composite)	06	06

P R O C E E D I N G S

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THE COURT: All right, we're on the record.

My name is Don Davis. I'm the administrative law judge -- please have a seat, gentlemen -- I'm the administrative law judge assigned to conduct the final hearing in this matter, which is the case of Jeffrey C. Barnes as the Petitioner against the Florida Real Estate Commission, Respondent. It's Case No. 07-4522.

We'll have appearance of the parties at this time. Mr. Barnes, are you a lawyer?

MR. BARNES: No, sir, I am not, I'm a Realtor.

THE COURT: So Mr. Barnes is the Petitioner. You're not an attorney. You're not represented by an attorney, is that correct?

MR. BARNES: That's correct, sir.

THE COURT: So you're appearing, as we would say, *pro se*?

MR. BARNES: Yes, sir.

THE COURT: All right. And representing the Florida Real Estate Commission is?

MR. CHISENHALL: Garnett Chisenhall, Your Honor.

THE COURT: All right, sir. And you -- and now, then, other preliminary matters we need to deal

1 with?

2 MR. CHISENHALL: Yes, sir. I have a binder
3 with exhibits. I shared them with Mr. Barnes
4 beforehand and we discussed them, and he has no
5 objection to the exhibits coming into evidence.

6 And during the course of my opening statement,
7 I think it would be very helpful for you to have the
8 exhibits in front of you because there's something I
9 need to explain on the record that would basically
10 significantly narrow the issues here today.

11 THE COURT: Give them to me. Give me the
12 binder.

13 Is this your understanding, Mr. Barnes?

14 MR. BARNES: Yes.

15 THE COURT: That these exhibits, you pose no
16 objection to any of these exhibits?

17 MR. BARNES: No, sir.

18 MR. CHISENHALL: And I've given Mr. Barnes an
19 identical binder as well.

20 THE COURT: All right. The binder given to me
21 contains one, two exhibits consisting of various
22 materials, the first being the application file of
23 Jeffrey C. Barnes maintained by the Division of Real
24 Estate, and then the second, Chapter 475, Part I,
25 Florida Statutes, 2007.

1 There being no objection, this is admitted into
2 evidence as Respondent's Composite 1.

3 (Whereupon, Respondent's Composite Exhibit No.
4 1 was marked for identification and received into
5 evidence.)

6 MR. BARNES: And can we admit this as well?

7 MR. CHISENHALL: The other thing is Mr. --
8 there was a meeting of the Florida Real Estate
9 Commission on July 18th of this year. I gave Mr.
10 Barnes a CD, a tape-recording of that meeting, and
11 Mr. Barnes would like to move the recording into
12 evidence.

13 As far as -- I have no objection to Your Honor
14 taking the CD into evidence, or if Your Honor
15 prefers a transcript, I have no objection to leaving
16 the record open until Mr. Barnes can get it
17 transcribed and filed with you later after the
18 hearing.

19 THE COURT: Why would I want to have the
20 meetings -- the meeting of a collegial body whose
21 decision is now being reviewed and I will establish
22 facts based on the evidence, the testimony and other
23 evidence that I receive?

24 I will in no way premise any facts that I find
25 on the deliberations of the Board of the -- of the

1 Florida Real Estate Commission.

2 MR. CHISENHALL: Yes, Your Honor, you're very
3 much correct, that this is a *de novo* proceeding, and
4 I agree that the relevancy of the tape-recording is
5 not very relevant at this point since Mr. Barnes has
6 asked for a hearing, but Mr. Barnes felt pretty
7 strongly about it.

8 THE COURT: Okay.

9 MR. CHISENHALL: And I decided not to raise an
10 objection.

11 THE COURT: All right, so you don't have any
12 problem with it coming in?

13 MR. CHISENHALL: No, sir.

14 THE COURT: I don't know. Again, if it comes
15 in, it comes in.

16 Mr. Barnes, how do you want to handle it? Do
17 you want me to take the exhibit, the CD itself, is
18 it in a form that can be readily played?

19 MR. BARNES: Well, in fact, it is, and I have
20 an IPOD that can play it over here.

21 THE COURT: We're not going to play it in this
22 proceeding. I'll take it into evidence.

23 MR. BARNES: Okay, then you can take that into
24 evidence.

25 THE COURT: But we won't waste time listening

1 to the Board and what they had to say in that
2 regard, but what's on that disk will come in and be
3 a part of the official record, and at some point I
4 will listen to it.

5 MR. BARNES: Okay.

6 THE COURT: All right?

7 MR. BARNES: Yes. Yes, sir.

8 THE COURT: Now, to the -- and it comes in,
9 again, its relevance is questionable, in my opinion,
10 at this point, but I'll find out as we go along
11 because I don't know what is going to be presented
12 to me, as counsel points out. But as a general
13 rule, I would not go behind what the Board has done.

14 MR. BARNES: Yes, sir. And possibly later on I
15 could move to have it removed so -- spare you the
16 trouble of listening.

17 THE COURT: Well, you're a fine fellow to do
18 that.

19 MR. CHISENHALL: Your Honor, just so you know,
20 the portion of the meeting dealing with Mr. Barnes
21 is about 36 minutes into the CD. There's a couple
22 of people that were dealt with before him.

23 THE COURT: All right, so I'll write that right
24 here so I know that.

25 MR. CHISENHALL: Hopefully you'll be able to

1 skip over that part.

2 THE COURT: I hope so.

3 MR. BARNES: Yes, there's a note on what time
4 or what minute the testimony begins for our hearing.

5 THE COURT: All right, sir.

6 (Whereupon, Petitioner's Exhibit No. 1 was
7 marked for identification and received into evidence.)

8 All right, what else have we got to deal with
9 this morning in terms of preliminary matters?

10 MR. CHISENHALL: Well, assuming we can get the
11 -- get Mr. Barnes' witnesses straightened out, I
12 would like to invoke the rule of sequestration and
13 just ask that his witnesses not be in the room while
14 someone else is testifying.

15 THE COURT: Are all these witnesses at the same
16 place?

17 MR. BARNES: No, sir. My brother is at a
18 church in Missouri, and my other pastor will -- and
19 my wife will be at her office --

20 THE COURT: Where is that?

21 MR. BARNES: -- in about 20 minutes.

22 She's at an inspection, can't open the office.
23 He's actually waiting outside.

24 THE COURT: She's in Missouri as well?

25 MR. BARNES: No, she's in Libertyville,

1 Illinois, but there is a separate office inside the
2 office that one or the other person can be in.

3 THE COURT: But one of your witnesses is in
4 Missouri, I'm hearing now, and one is in Illinois?

5 MR. BARNES: Two are Illinois. Today I've only
6 been able to make the logistics with Janet Victoria,
7 Christopher Barnes and J.D. Millar.

8 THE COURT: All right, so those three are the
9 only three that you're going to be able to have
10 testify, all of them by phone?

11 MR. BARNES: Yes, sir.

12 THE COURT: Do you have any witnesses here on
13 the premises?

14 MR. BARNES: No, I do not, sir.

15 THE COURT: All right. We'll be in recess for
16 a moment and off the record.

17 (Brief recess.)

18 THE COURT: Back on the record.

19 This is Petitioner's case. Mr. Barnes, *pro se*,
20 the Petitioner Barnes is attempting to contact a
21 witness that he will seek testimony from via
22 telephone. We're off the record.

23 (Discussion off the record.)

24 THE COURT: We're on the record.

25 Now that everyone has agreed here, sir, would

1 you state your name?

2 MR. CHRISTOPHER BARNES: Yes, my name is
3 Christopher Barnes.

4 THE COURT: Christopher Barnes.

5 Mr. Barnes, I'm going to ask you at this time
6 to raise your right hand, and do you solemnly swear
7 that the testimony you will give in this proceeding
8 will be the truth, the whole truth and nothing but
9 the truth, so help you God?

10 MR. CHRISTOPHER BARNES: I do.

11 THE COURT: All right. Mr. Barnes, Petitioner,
12 if you would proceed with your questions, sir?

13 MR. BARNES: Yes, sir.

14 Whereupon,

15 CHRISTOPHER BARNES
16 was called as a witness via telephone, having been first
17 duly sworn to speak the truth, the whole truth, and
18 nothing but the truth, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. BARNES:

22 Q Chris?

23 A Yes, sir.

24 Q Would you be able to -- do you know Mr. Barnes,
25 Jeff, for how many years?

1 A Let's see. I'm 57, so I think I've known you
2 for 57 years.

3 Q Okay. Do you know Jeff Barnes to be honest,
4 truthful, trustworthy, of good character and having a
5 reputation for fair dealing?

6 A Yes, I do.

7 Q Okay. Do you know him to be a man of good
8 conduct and reputation?

9 A Yes, I do.

10 Q Do you know that Mr. Barnes has, in fact, 22
11 years ago had felony convictions for possession of
12 cannabis and manufacture/delivery of cocaine and
13 possession of same?

14 A Yes, I'm aware of that.

15 Q Okay. And you still believe Mr. Barnes to be
16 of good character and reputation?

17 A Yes, since that time.

18 Q Is there anything you'd like to add about Mr.
19 Barnes' character?

20 A Well, you know, I just want to mention that as
21 bad as that situation was, it was probably the thing that
22 turned your life around and caused you to take a whole
23 different road in life.

24 I have seen you succeed in the computer
25 industry. I've seen you succeed in your church. I've

1 seen you succeed as a Realtor. As a matter of fact,
2 you're personally my Realtor because I trust you so much.

3 And I know that in the database industry that
4 you've been in, you've been in leadership in that role.
5 Also, again, as a private pilot, you're trusted week in,
6 week out with the care of young people on your plane.

7 Q Okay. Is that it? Well, thank you very much,
8 but --

9 A I think that's sufficient.

10 THE COURT: All right, Mr. Barnes. Mr. Barnes,
11 the counsel for the Real Estate Commission may have
12 some questions for you.

13 Go ahead, counsel.

14 THE WITNESS: That would be fine.

15 CROSS EXAMINATION

16 BY MR. CHISENHALL:

17 Q Mr. Barnes, my name is Gar Chisenhall. I
18 represent the Florida Real Estate Commission.

19 Just -- we're kind of taking your testimony out
20 of order, so just so the administrative law judge can
21 have some background, we're here today because Jeffrey
22 Barnes requested that he be licensed in Florida to become
23 a real estate broker, and the Commission decided to deny
24 his application based on his criminal background.
25 Specifically, they cite the two convictions for

1 possession/delivery of cocaine. Mr. Barnes requested a
2 formal administrative hearing, and that's why we're here
3 today.

4 And it's Mr. Barnes' burden to demonstrate
5 through subsequent conduct and reputation for honesty and
6 fair dealing that he's been rehabilitated since his
7 convictions in the mid-1980s.

8 Now, Mr. Barnes, just, I need to ask, have you
9 discussed your testimony today with anyone other than
10 Jeffrey Barnes?

11 A No. No, I have not.

12 Q And so since you're the first witness, I don't
13 have to ask you if you've heard anyone else's testimony.

14 A No. No, I have not.

15 Q No. Mr. Barnes, thank you very much. I don't
16 have any more questions for you.

17 MR. BARNES: I have one more question, if I
18 may.

19 REDIRECT EXAMINATION

20 BY MR. BARNES:

21 Q Chris Barnes, did you write the letter dated
22 May 25, 2007, *To Whom It May Concern*, under the
23 stationery of the Evangelical Free Church of Wauconda,
24 regarding the character of Mr. Jeffrey Barnes?

25 A Yes, I did.

1 Q Okay, thank you very much.

2 THE COURT: Do you want that admitted into
3 evidence?

4 MR. CHISENHALL: Actually, Your Honor --

5 MR. BARNES: Well, this is part of our package,
6 Your Honor.

7 MR. CHISENHALL: -- on page 46 --

8 THE COURT: It's already in there?

9 MR. BARNES: Yes.

10 THE COURT: So you want it admitted?

11 MR. CHISENHALL: Under tab 1.

12 THE COURT: And it's already been admitted?

13 MR. CHISENHALL: Yes, sir.

14 MR. BARNES: Yes, sir.

15 MR. CHISENHALL: On page 46, under tab 1.

16 THE COURT: All right, thank you.

17 MR. BARNES: Did you have any questions, Your
18 Honor?

19 THE COURT: I have no questions.

20 And thank you very much, sir, for talking with
21 us this morning.

22 THE WITNESS: Okay, you're very welcome.

23 MR. BARNES: Thanks, Chris.

24 THE COURT: Have a good day.

25 THE WITNESS: Okay, thank you.

1 (Witness excused; telephone connection
2 terminated.)

3 THE COURT: All right, where is the other
4 witness now? Is she around where he was, do you
5 think?

6 MR. BARNES: No, he's in Missouri. He's
7 30 miles outside of Kansas City.

8 THE COURT: Okay. So when we get to these
9 other folks, we need to apprise them that they need
10 to stay separate.

11 MR. BARNES: Yes. And, in fact, I'm sure my
12 wife is running late. She's about 20 miles, 15
13 miles from the office with a City inspector on my
14 brother's house, in fact, on a code inspection. And
15 I'm pretty sure Mr. Millar is on a cell phone
16 waiting outside our office. So they're *de facto*
17 segregated.

18 MR. CHISENHALL: Who are you calling first?

19 MR. BARNES: J.D. Millar, James Dean Millar,
20 spelled M-i-l-l-a-r.

21 THE COURT: M-i-l-l-a-r.

22 MR. BARNES: J.D., can you hear me?

23 MR. MILLAR: Yes.

24 MR. BARNES: Hi, this is Jeff.

25 MR. MILLAR: Yes.

1 MR. BARNES: And we're going ahead, if I could
2 introduce you to the Court. Are you anywhere -- are
3 you in our office?

4 MR. MILLAR: No. You said the office wouldn't
5 be open until 9:00, and that's ten minutes to go.

6 MR. BARNES: Well, true to my word, sir, sorry
7 for any inconvenience, and actually we're glad
8 you're not with any other witnesses. There's a
9 question of separation.

10 MR. MILLAR: Okay.

11 MR. BARNES: Let me introduce you --

12 MR. MILLAR: Jeff, you're quite hard to
13 understand here, and I'm staying away from all the
14 people and the noise that I can, so say again.

15 MR. BARNES: Okay. Can you hear me now?

16 MR. MILLAR: Yes, reasonably. Go ahead.

17 THE COURT: What we need, sir, my name is Don
18 Davis, and I'm the judge in this situation. Mr.
19 Barnes has elected to get my permission to have you
20 testify in this proceeding by telephone, and so what
21 we do need for you to do is to be in an area where
22 you have as little other noise interruptions as
23 possible so that we can understand you here and you
24 can understand us there.

25 Did you hear me?

1 MR. MILLAR: I can hear a voice. I can make
2 out about ten percent of what you're saying, I'm
3 afraid.

4 THE COURT: Okay. That's unfortunate.

5 MR. MILLAR: That's what I thought.

6 MR. BARNES: Can you go outside, J.D.?

7 MR. MILLAR: I can move to get near a hard line
8 within five minutes.

9 MR. BARNES: That would be a landline, a phone
10 line.

11 THE COURT: If you give the number, then, to
12 Mr. Barnes here, he can call you at that number.

13 MR. BARNES: Okay, J.D., where at?

14 MR. MILLAR: Well, let's see, Jeff. I can be
15 in my office in about -- by nine o'clock, within ten
16 minutes.

17 MR. BARNES: Okay.

18 MR. MILLAR: And the number there is -- do you
19 know that number, Jeff, (847) 362-2174?

20 MR. BARNES: Got it, 2174.

21 MR. MILLAR: Okay. There was a big ice storm
22 last night, Jeff. I know you can't understand that
23 down there in Tallahassee, but -- so it's going to
24 take me at least ten minutes to get to the church
25 and get the door open and get in my office, so I'll

1 do the best I can for you.

2 MR. BARNES: Yes, sir. And I appreciate your
3 efforts. Thank you very much.

4 MR. MILLAR: Okay, I'm ringing off. Bye-bye.

5 MR. BARNES: Okay, goodbye.

6 (Telephone connection terminated.)

7 THE COURT: All right, so we're ten minutes --
8 we're off the record for ten minutes.

9 (Brief recess.)

10 THE COURT: We're going to go back on the
11 record at this time to take testimony from Janet
12 Victoria, am I correct, the owner of Real Property?

13 MR. BARNES: Real Property Pros.

14 THE COURT: Pros, okay.

15 MS. VICTORIA: Yes. I'm Janet Victoria,
16 broker/owner of Real Property Pros.

17 THE COURT: All right. So can you hear me all
18 right, madam?

19 MS. VICTORIA: I hope you can hear me all
20 right.

21 THE COURT: You're coming through like
22 gangbusters.

23 MS. VICTORIA: Okay, good.

24 THE COURT: All right. The Petitioner here,
25 Jeffrey Barnes, are you related to him in some

1 fashion?

2 MS. VICTORIA: Yes, in some fashion; I'm
3 married to him.

4 THE COURT: All right, so that qualifies as
5 some fashion, all right.

6 Mr. Barnes called you as a witness in this
7 proceeding on his behalf, and I'm going to ask you
8 that, since it's also been requested by counsel for
9 the Real Estate Commission that you not talk -- that
10 witnesses not talk with each other before or after
11 they give their testimony, I'm going to ask you not
12 to talk with anyone else until we get through here
13 today, which hopefully won't be that long. Talk not
14 to anyone about what we're talking about or about
15 what you have told us, and --

16 MS. VICTORIA: Right.

17 THE COURT: All right?

18 MS. VICTORIA: Yes.

19 THE COURT: Also at this time I will ask you
20 would you please, do you solemnly swear or affirm
21 that the testimony you will give in this proceeding
22 will be the truth, the whole truth and nothing but
23 the truth, so help you God?

24 MS. VICTORIA: Yes.

25 THE COURT: All right, very well.

1 Now, at this time Mr. Barnes is going to ask
2 you some questions, and then that's going to be
3 followed by questions from counsel for the Real
4 Estate Commission if he has any.

5 So, Mr. Barnes, if you would proceed?
6 Whereupon,

7 JANET VICTORIA

8 was called as a witness, having been first duly sworn to
9 speak the truth, the whole truth, and nothing but the
10 truth, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. BARNES:

13 Q Janet, do you know Jeff Barnes to be honest,
14 truthful, trustworthy, of good character and having a
15 good reputation for fair dealing?

16 A Yes. I've never had any problem with any of
17 those items in terms of your service to clients and
18 acting as a real estate salesperson.

19 THE COURT: As a typical wife, I noted the
20 qualifier you put on that.

21 THE WITNESS: Okay.

22 BY MR. BARNES:

23 Q Do I sweep the kitchen floor, do all the
24 dishes?

25 A I will not answer that.

1 Q Oh, come on, you know I do. I just don't do
2 it -- do I do it happily?

3 A Excuse me, there was a break in --

4 Q I'll move on to the next question.

5 Do you know roughly how much in sales Mr.
6 Barnes has honestly and faithfully and fairly been able
7 to generate in real estate transactions?

8 A It's been over three million. It's probably
9 been -- I -- you know, if I knew I was going to testify
10 to that, I would have found out exactly how many
11 transactions, but I believe it's about ten or 12
12 transactions. And again, I'm not referring to any of my
13 records right now. I just walked in the door when you
14 got me.

15 Q Right, okay. And are you aware that in the
16 mid-'80s, or 22 years ago, Mr. Barnes was incarcerated
17 for manufacture and/or delivery or possession of cocaine
18 and/or cannabis?

19 A Yes.

20 Q Would you agree, at least since you've known
21 him, and I stipulate since 1992, that he has always been
22 a person of good conduct and reputation?

23 A Yes.

24 Q And in the interests of the public and real
25 estate investors, has there ever been any question that I

1 was endangering their business or their assets or
2 interests?

3 A No, there has been nothing of the sort.

4 MR. BARNES: Okay. Well, I have no further
5 questions at this time.

6 Mr. Chisenhall?

7 MR. CHISENHALL: Thank you very much.

8 CROSS EXAMINATION

9 BY MR. CHISENHALL:

10 Q Ms. Victoria, my name is Gar Chisenhall. I'm
11 the attorney for the Florida Real Estate Commission. I
12 just have a few questions for you.

13 When did you and Jeffrey Barnes meet?

14 A We met in, I believe it was either late '91 or
15 early '92; it was winter.

16 Q Just -- in what context did you meet? Was it
17 through a business transaction or consulting work?

18 A No. Well, we met through a friend, and then we
19 did -- he did become one of my clients and I did sell a
20 home to him.

21 Q When was that?

22 A '93, 1993 -- I don't have the exact record in
23 front of me, but if my memory serves me correctly it was
24 1993.

25 Q How long have the two of you been married?

1 A Ten years, a little more than ten years.

2 Q So since 1997?

3 A Yes, 1997, (INAUDIBLE) 18, 1997.

4 Q When did Mr. Barnes start going to work for
5 you?

6 A In 2004.

7 Q Can you describe -- now, are you his boss?

8 A Yes. I'm the broker/owner of the company.

9 Q Can you describe what Mr. Barnes does at your
10 business?

11 A He, you know, procures clients and services,
12 whether selling or purchasing, you know, what, you know,
13 dependent on which it is, listing of properties. We do
14 business jointly together, you know, a lot of business
15 jointly together. It's a very practical and efficient
16 manner, you know, to work together.

17 And so, you know, anything from showing homes,
18 writing contracts, following through to closing, you
19 know, dealing with the attorneys, closing companies.

20 Any specific -- anything specific you're
21 looking for that I --

22 Q It's kind of, would you describe his duties
23 almost like a co-manager? It sounds like he does maybe
24 more than a typical broker or sales associate. Is that
25 correct?

1 A Well, he's -- that he does more than a typical
2 sales associate and in terms of the contacts with this
3 company, is that what you're asking? You know --

4 Q I guess I'm just trying to get a sense of, does
5 he have more responsibility than your typical employee
6 that you have there? Is he almost like a manager, like a
7 second in command, so to speak?

8 A Well, he does take care of the technology side
9 of the business in that regard and has -- does do, you
10 know, training, et cetera, with our staff and, you know,
11 manages that -- has managed that end.

12 Q Okay, thank you very much.

13 MR. CHISENHALL: Your Honor, I have no further
14 questions.

15 THE COURT: All right. Do you have any need
16 for this --

17 MR. BARNES: Yes, sir.

18 REDIRECT EXAMINATION

19 BY MR. BARNES:

20 Q Have I been able to follow up and facilitate on
21 transactions on behalf of other agents?

22 A Yes, you have. Yes, especially when I had, of
23 course, just had -- you know, having been married --
24 being married to him, you know, I have had to rely on him
25 in assisting, you know, some follow-through in certain

1 cases, yes.

2 Q Okay. And in dealings with clients' attorneys,
3 have you gotten any feedback one way or another as to the
4 conduct of those transactions?

5 A Only positives. I've never gotten any negative
6 feedback, you know, letters, you know, we've gotten
7 letters, and it's always nice to get letters from
8 attorneys who say it was a pleasure dealing with you.

9 Sometimes attorneys and real estate people
10 clash heads a lot, but that hasn't been the case with
11 Jeff.

12 Q Okay. And on a personal basis, have I been a
13 good provider and have I assisted in providing for the
14 education of my stepchildren, your daughters?

15 A Yes.

16 Q And have I loaned assistance to other members
17 of your family as might be expected of a man of good
18 character and reputation?

19 A Yes. Yes, I don't think that there's any
20 question, you know, with regard to any comparison to your
21 past behavior. I know that when you did tell me about,
22 while we were dating, about your prior, you know, your
23 incarceration --

24 Q History?

25 A -- I know that it did take me aback, but you

1 certainly haven't engaged in any of the patterns that you
2 had before. You really made a -- obviously, made a
3 complete turnaround, and I don't know if, in fact, that
4 they know you don't even drink now. So, you know, I
5 mean, you're a totally different person.

6 Q Do I smoke cigarettes?

7 A Pardon me?

8 Q Do I smoke cigarettes?

9 A No, you don't smoke cigarettes.

10 Q Okay. Gave that up, too.

11 MR. CHISENHALL: Your Honor, could I ask some
12 questions on recross?

13 THE COURT: Sure.

14 Ms. Barnes, just a moment. One more set of
15 questions from counsel for the Real Estate
16 Commission, and then we're going to let you go.

17 THE WITNESS: Okay.

18 RE CROSS EXAMINATION

19 BY MR. CHISENHALL:

20 Q Ms. Victoria, this is Gar Chisenhall again.
21 There was some testimony about Mr. Barnes providing for
22 the education of his stepchildren and helping out
23 relatives. Could you give us some more details about
24 that, please?

25 A Okay, could you repeat the question? I didn't

1 hear you.

2 Q I'm sorry. He asked about providing for the
3 education of the stepchildren. How many stepchildren --
4 I mean, how many stepchildren does he have?

5 A Well, I had four children, but yes, when we got
6 married we were raising two of my daughters. They were
7 just in junior high, and we got them through school and
8 they then both attended Washington University in St.
9 Lewis. Both have graduated with great grades and have
10 very promising futures ahead of them, and Jeff certainly
11 helped finance that education.

12 Q What -- if you could just give me a ballpark
13 figure, there's -- you have -- there's two daughters.
14 What percentage of their college education did Mr. Barnes
15 finance? And you don't have to be -- obviously, you
16 can't be exact, but was it half or a quarter or 75
17 percent?

18 A Well, they had -- they were paying for one-
19 third of their own through loans, and then the remainder
20 of the -- was split between their biological father and
21 Jeff and I.

22 Q So that's about 17 percent?

23 A So the kids took on the responsibility of about
24 30 percent of their education, and then the remainder,
25 70 percent, we split between their biological father and

1 ourselves.

2 Q So would it be fair to say that Mr. Barnes
3 helped out to the tune of 17 percent?

4 A Yes.

5 Q Okay, thank you.

6 Now, there's also some questions about Mr.
7 Barnes' assisting relatives. Could you give us some more
8 details about that?

9 A In -- well, I have -- my oldest daughter is 37,
10 and her husband lost his job, and he, you know, he has --
11 we both have, you know, made loans to them as well as his
12 children, too, in the past, you know, through these hard
13 times.

14 I mean, I don't think it was an exorbitant
15 amount. I don't know. You know, I'm not sure what
16 exactly you're looking for.

17 Q How much, with regard to any loans Mr.
18 Barnes -- did Mr. Barnes make a loan to your oldest
19 daughter?

20 A Yes.

21 Q Do you recall how much that loan was for?

22 A You know, I don't know exactly, you know, how
23 much that was. I know that it was between them, and I
24 honestly -- you know, we -- I, myself, am involved with
25 -- in taking care of two family members that have

1 dementia, and, you know --

2 Q That's okay.

3 A And I apologize for not knowing exactly how
4 much, but I do know that they've -- I -- you know, that
5 my daughter did make a payment back to him just a few
6 days ago. So I know the loan exists; unfortunately, I
7 don't know the amount.

8 Q That's okay, Ms. Victoria. I don't have any
9 more questions. Thank you.

10 A Okay.

11 THE COURT: All right. Thank you very much,
12 ma'am. And please, like I say -- I don't know that
13 we're going to have any other witnesses.

14 Are we going to have any other witnesses by
15 phone, Mr. Barnes?

16 MR. BARNES: Well, J.D. is back at his church,
17 J.D. Millar.

18 THE COURT: Okay. We're going to have Mr.
19 Millar, Reverend Millar.

20 THE WITNESS: He was here.

21 MR. BARNES: Yes, he went to a landline.

22 THE COURT: All right. Well, thank you very
23 much, Mrs. Barnes. Just don't discuss your
24 testimony with Mr. Millar.

25 THE WITNESS: All right. I will not speak with

1 anybody about it.

2 THE COURT: All right. Thank you very much.

3 MR. BARNES: Thank you.

4 THE WITNESS: You're welcome. Bye-bye.

5 MR. BARNES: Bye-bye.

6 (Witness excused; telephone connection
7 terminated.)

8 THE COURT: We'll be off the record until we
9 get the next witness.

10 (Brief recess.)

11 THE COURT: All right. Mr. Millar, or is it
12 Reverend Millar, Dr. Millar? What's --

13 MR. BARNES: J.D.?

14 MR. CHISENHALL: Pastor?

15 UNIDENTIFIED SPEAKER: I know that you're
16 looking for J.D. He's not here right at this
17 minute. He's one of our associate pastors, and you
18 know we're having this terrible ice storm today.

19 THE COURT: All right, thank you. When will
20 Mr. Millar -- Mr. Millar is supposed to be there
21 eventually.

22 MR. BARNES: Are you sure? Can you check his
23 office?

24 UNIDENTIFIED SPEAKER: Hold on a minute and let
25 me just see, okay?

1 MR. BARNES: Okay.

2 UNIDENTIFIED SPEAKER: Just a minute.

3 MR. BARNES: I couldn't hear who answered. I
4 thought it was him.

5 THE COURT: Well, we need to speak one at a
6 time for the purpose --

7 MR. BARNES: Yes. Well, there are pastors at
8 different ends of the church, not politically,
9 just --

10 MR. CHISENHALL: Physically.

11 MR. BARNES: Yes, physically.

12 MR. MILLAR: Good morning. J.D.

13 MR. BARNES: Oh, good morning, J.D.

14 THE COURT: All right, let me talk.

15 Is this Mr. Millar that we previously spoke
16 with on the telephone earlier?

17 MR. MILLAR: It is. Now I'm able to hear you.

18 THE COURT: All right, good.

19 We're here in the courtroom in Tallahassee,
20 Florida, and at this time we're going to proceed to
21 hear your testimony.

22 If I did not swear you earlier, I will do so at
23 this time. Do you solemnly swear or affirm that the
24 testimony you will give in this proceeding will be
25 the truth, the whole truth and nothing but the

1 truth, so help you God?

2 MR. MILLAR: It shall be.

3 THE COURT: Is that a yes or a no?

4 MR. MILLAR: That's a yes.

5 THE COURT: All right.

6 At this time Mr. Barnes will proceed to ask you
7 some questions. At the conclusion of that the
8 attorney for the Real Estate Commission will ask you
9 questions.

10 MR. MILLAR: Okay. And with whom am I
11 speaking, please?

12 THE COURT: My name is Don Davis, and I'm the
13 administrative law judge here.

14 MR. MILLAR: You're an ALJ down there, okay.

15 THE COURT: Right.

16 Go ahead.

17 Whereupon,

18 J.D. MILLAR

19 was called as a witness, having been first duly sworn to
20 speak the truth, the whole truth, and nothing but the
21 truth, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BARNES:

24 Q J.D., can you just tell us about yourself, what
25 type of job you have and have had?

1 A Well, I was -- the first 25 years of my life
2 out of college I was a regular U.S. Air Force officer,
3 served a full career as a fighter pilot with multiple
4 combat tours.

5 Upon retirement, I worked in the business
6 sector in and around Washington, D.C., and then felt the
7 unmistakable call to serve the church; was accepted to
8 Princeton Theological Seminary, graduated in 2001, and
9 have been in the service of First Presbyterian Church in
10 Libertyville, Illinois, since January, 2002.

11 My position here is Associate Pastor of
12 Congregational Care and Evangelism, which means my
13 general portfolio, other than general pastoral duties, is
14 specifically a single point of contact for pastoral care
15 matters within this congregation of 1,350 and working
16 through the various gifts of the Holy Spirit to enrich
17 and grow our congregation.

18 Q Thank you for that introduction.

19 And how long have you known Jeff Barnes?

20 A I would recall that I met Jeff in about 2003,
21 within a year or -- within a year after my arrival here.

22 Q Okay. And do you know Jeff Barnes to be
23 honest, truthful, trustworthy and of good character and
24 having a reputation for fair dealing?

25 A I know Jeff Barnes to be all of those, yes, I

1 do.

2 Q Okay. And do you know that Mr. Barnes is a
3 person of good conduct and reputation?

4 A I do.

5 Q Okay. Is there anything else you can tell us
6 about Mr. Barnes in his activities at the church?

7 A Well, my first introduction was through our
8 mutual love of airplanes, with my background and his
9 avocation, and I quickly found that Jeff was what we in
10 the church call a rather secret saint or a hidden saint:
11 those folks who do the work of the church but do it
12 without drawing attention to themselves and do it without
13 being asked and doing it without seeking any recognition
14 specifically.

15 In Libertyville, Illinois, in Lake County, we
16 have a vigorous program known as PADS, P-A-D-S, which is
17 an acronym for Public Access to Decent Shelter, and Mr.
18 Barnes is a frequent volunteer at our Libertyville PADS
19 site. Our church volunteers and signs up to man and --
20 continually every Wednesday night throughout the winter.

21 Secondly, Mr. Barnes is a frequent attender and
22 participant in our Presbyterian Mobile Foods Pantry
23 where, for the last five years, we have on the third
24 Saturday of every month taken delivery of somewhere
25 between 6,000 and 7,000 pounds of food from the Northern

1 Illinois Food Bank, set it up on 17 huge church tables in
2 our parking lot, and distributed it to any and all who
3 show up, without question.

4 Needless to say, that takes a lot of hands and
5 hearts to mobilize that and to interface with our guests,
6 as we call them, and to see that they are treated with
7 respect and dignity and that they can go home with a
8 large box of groceries for the month.

9 And then the third item is, we have here an
10 active ministry for our seniors, those within the church
11 and those within the community, and part of that is, in
12 the spring and in the fall we have a senior worship
13 communion and luncheon service, which is a big deal here.
14 And one of the delights for the seniors is we provide
15 them with a photograph of themselves made on a big pin,
16 like a big political pin you'd wear.

17 And then I found out that Jeff Barnes was the
18 one that got that moving with his knowledge of
19 photography, and digital photography in particular, and
20 computers and got them printed up and handed out and --
21 twice a year for years, and I didn't know he was doing
22 that.

23 So that -- and then on top of that he's a
24 frequent attender at Sunday morning worship.

25 Q Okay. Is there -- do you have a program that

1 interfaces with Habitat for Humanity?

2 A Habitat for Humanity is part of our community
3 outreach. It is a well-known nationwide, and, in fact, I
4 suppose, worldwide ministry, and we're active in it here
5 at First Pres-Libertyville. We and other Presbyterian
6 churches in the area have frequently sponsored a home of
7 our own, which means we paid for all the building
8 materials.

9 And every Wednesday and every -- and almost
10 every Saturday, with weather permitting, we solicit
11 volunteers from this church to go out and work, and Jeff
12 is a frequent participator in that ministry.

13 And we just don't build the homes. We try to
14 follow up with those to whom the homes are turned over to
15 with Christmas dinners, turkey, Thanksgiving, and done
16 those types of things, clothing, a gift of a housewarming
17 quilt, which our ladies do, and Jeff works continually
18 within that piece of ministry.

19 Q Okay. Thank you very much, J.D. At this time,
20 I'll turn the questioning over to the State.

21 A Okay.

22 MR. CHISENHALL: Thank you.

23 CROSS EXAMINATION

24 BY MR. CHISENHALL:

25 Q Pastor Millar, my name is Gar Chisenhall.

1 A Say it a little slower, please.

2 Q I'm sorry. My name is Gar Chisenhall, I'm a
3 lawyer representing the Florida Real Estate Commission.

4 A Okay.

5 Q I just wanted to ask you some questions about
6 your testimony.

7 A Uh-huh.

8 Q First of all, could you give me some more facts
9 about what the PADS program is?

10 A Public Access to Deliver Shelter.

11 Q Is that like Habitat for Humanity?

12 A No. Habitat builds homes for families that are
13 selected by various -- by the Habitat organization. PADS
14 is for any other -- in any other community would be
15 called the homeless shelter.

16 Q Okay, thank you.

17 A The PADS residents congregate in Waukegan,
18 Illinois, and then a busload of men, this is a men's
19 shelter over here in Illinois in the basement of one of
20 our huge real estate firms, and there's a PADS facility
21 down there, which means up to 40 men can shower, they can
22 have meals, they spend the night there, and it's a night
23 ministry, actually. Does that help?

24 Q Yes, sir, very much.

25 A Okay.

1 Q How often does Mr. Barnes volunteer there?

2 A I don't know. We, the church, sponsor -- we
3 signed up to work there on three shifts from 3:00 in the
4 afternoon until 6:00 in the morning or 7:00 in the
5 morning, and it's every Wednesday night. That volunteer
6 list is managed by another gentleman just off of our
7 Board of Deacons, and I don't look at it and I don't have
8 access to it.

9 Q That's okay.

10 A I know that Jeff is a, if I can say, frequent
11 volunteer. I can't put a number on it, counselor.

12 Q Okay, that's fine. Thank you.

13 A You're welcome.

14 Q Have you had any business dealings with Mr.
15 Barnes?

16 A No.

17 Q All right. And are you aware of Mr. Barnes'
18 criminal background?

19 A I am.

20 Q Could you describe the convictions? Do you
21 know what he was convicted for?

22 A I believe possession with intent to sell of
23 narcotics.

24 Q All right.

25 A Is that close?

1 Q Yes, sir.

2 A Come again?

3 Q Yes, sir, it was.

4 I have no further questions. Thank you very
5 much.

6 A And I honestly don't know how long ago that
7 was, but not in what I call this life, meaning since I've
8 known him here in Libertyville.

9 THE COURT: How long have you known him there?

10 THE WITNESS: I'd say -- is it Your Honor?

11 THE COURT: Yes.

12 THE WITNESS: I would say five years. The
13 first year of my ministry here in a 1,350 member
14 church, I met so many folks, it was well into the
15 second year before names started to match faces. So
16 that's why I'm saying not the entire six years I've
17 been here, but probably close to the five.

18 In fact, now that I think about it, Jeff and
19 his wife became members of this church after my
20 arrival. That's when I first met him, at our new
21 members class. Now it's coming back. That was
22 probably in '03.

23 THE COURT: All right, thank you.

24 THE WITNESS: Is that helpful?

25 THE COURT: Thank you very much.

1 THE WITNESS: You're welcome very much.

2 REDIRECT EXAMINATION

3 BY MR. BARNES:

4 Q I had one question.

5 A Who's this?

6 Q This is Jeff.

7 A Okay. Now I recognize your voice. Go ahead,
8 sir.

9 Q In retrospect, could you recall that myself and
10 my wife performed a comparative market analysis for you,
11 for your property?

12 A You did. Victoria Janet did. I didn't know if
13 you were hands-on involved. That's why I answered in the
14 negative, plus it wasn't a financial transaction, it was
15 just done as a favor.

16 Q Right, and I'm the back office.

17 A All right. Well, all the e-mails came from
18 Janet.

19 Q Right.

20 A That's why I answered in the negative, because
21 there was no money involved and there was no listing
22 accomplished and it was for informational purposes.

23 THE COURT: What kind of market analysis? This
24 is --

25 THE WITNESS: That would be what my townhouse,

1 the townhouse that my wife and I own, compared to
2 others within the townhouse community both within
3 the one in which we live and in the general area.

4 BY MR. BARNES:

5 Q And I think the question was the assessed value
6 might have gone up and it might have been out of line and
7 it might not have been?

8 A Well, that was part of it. That's what
9 promulgated the discussion with Janet and the company was
10 that I got a real estate -- I mean, the County Assessor
11 raised the assessed valuation, and we couldn't understand
12 why since the real estate market in this community in
13 2007 had been flat or declining rather than rising, and I
14 couldn't understand why the assessed valuation would
15 rise.

16 THE COURT: Well --

17 THE WITNESS: It was pointed out to me why it
18 did. And, in fact, for reasons which I can't
19 understand, my personal property tax went down for
20 the year.

21 THE COURT: All right.

22 THE WITNESS: So I can't understand that, but
23 that's another story.

24 THE COURT: Did your property tax go down, your
25 property tax assessment?

1 THE WITNESS: Beg your pardon?

2 THE COURT: Did your property tax assessment go
3 down as a result of this exercise?

4 THE WITNESS: No, no, no. I looked at it, and,
5 in fact, we found our assessed valuation to be quite
6 in line with similar and exact floor plans within
7 our townhome community, which led my wife and I to
8 the decision, well, then no use to *reclama* that to
9 the County. And then as an aside, even though the
10 assessed value went up, my withholding from the
11 mortgage company went down a trifle. So I -- how
12 that all works is a mystery to me, but that was the
13 basis for the inquiry.

14 THE COURT: You receive a housing allowance
15 from your church, I assume?

16 THE WITNESS: Well, unlike -- we are allowed,
17 as ministers of the Word and Sacrament, to take our
18 compensation and declare a portion of it housing
19 allowance, much like --

20 THE COURT: Right.

21 THE WITNESS: -- much like the military,
22 although that was a fixed amount based on rank. And
23 that amount is given to us tax-free.

24 THE COURT: Right. That's my understanding as
25 well.

1 THE WITNESS: Yes.

2 THE COURT: And, believe it or not --

3 THE WITNESS: It's not over and above the
4 compensation package. I mean, it's part of.

5 THE COURT: All right. Anything further from
6 either of you?

7 MR. BARNES: No, sir.

8 MR. CHISENHALL: No, Your Honor.

9 THE COURT: All right.

10 Thank you, Pastor Millar. It's been a pleasure
11 to talk with you today. That concludes your
12 testimony, and we'll be off the record a moment.

13 MR. BARNES: Thank you, sir.

14 THE WITNESS: Okay. Very well. God bless you.

15 MR. BARNES: Okay, thank you. You, too.

16 (Witness excused; telephone connection
17 terminated.)

18 (Discussion off the record.)

19 THE COURT: All right, let's go back on the
20 record.

21 And the Petitioner has concluded his
22 presentation, is that correct?

23 MR. BARNES: As to --

24 THE COURT: Or do you wish to testify yourself?
25 If so, I'll administer the oath, and --

1 MR. BARNES: Yes, sir.

2 THE COURT: All right. Raise your right hand.

3 Whereupon,

4 JEFFREY BARNES

5 was called as a witness, having been first duly sworn to
6 speak the truth, the whole truth, and nothing but the
7 truth, was examined and testified as follows:

8 THE COURT: All right. Tell me what you want
9 to tell me.

10 DIRECT TESTIMONY

11 MR. BARNES: I just wanted to state, and I
12 appreciate the State conceding to the quote,
13 unquote, findings of fact, from the Commission and
14 that would be --

15 MR. CHISENHALL: Well, I'll tell him about that
16 later.

17 MR. BARNES: Okay. All right, I'll set that
18 aside for the State to mention.

19 I will say that I believe I've so far provided
20 good character -- testimony to good character. And
21 if I could just run through a small list of things
22 to add weight to the good character and reputation,
23 I will add that I have been gainfully employed since
24 18, since the age of 18, except for the time of my
25 incarceration. I have been in the same home for 14

1 years. I've been a member of my church actually for
2 six -- since 2002, and attending there for five
3 years before that. I've been an IT consultant since
4 1977. I've been in that profession since 1967.

5 THE COURT: For purposes of our record, tell us
6 what IT means.

7 MR. BARNES: IT is information technology.

8 THE COURT: Okay.

9 MR. BARNES: The computer industry. And
10 primarily applications that make things work in our
11 society with computers.

12 To that end, I'm also right now a president of
13 an Illinois corporation, JCB Enterprises, that
14 provides information technology consulting services.

15 I'm considered in high regard in my industry.
16 An example of that is for 15 years I have been
17 president of the Chicagoland PsyBase tools users'
18 group.

19 PsyBase is about the third or fourth market
20 position database provider in the world, and that's
21 a group, at one time, of 1,200 members. It's
22 diminished with the Internet because now people get
23 their seminars on line. But that's an example of
24 peers accepting me as a man of good character and
25 reputation.

1 As mentioned, I'm a licensed Realtor in two
2 states, Illinois and Wisconsin. As was stipulated
3 in my application in a letter I wrote, Illinois
4 doesn't ask for detailed criminal history, they just
5 ask that you have committed no crimes involving
6 dishonesty or fraud. That's Illinois' stipulation.

7 Wisconsin, on the other hand, requires all the
8 information I originally provided Florida,
9 certificates of disposition of those cases.
10 Wisconsin has granted me a license.

11 Beyond that, I've made application to the State
12 of Oregon. They require the same disclosures, the
13 same dispositions. They have granted me application
14 for broker in Oregon based upon -- also they require
15 a job history and proof of employment and certain
16 character references. They got basically the same
17 package Florida did, with the addition I think of my
18 résumé.

19 Going outside of that, I've been a member of
20 the Lifeline Pilots organization since 2000. That's
21 a group of pilots that provides free air service to
22 handicapped and people that are in both physical and
23 financial distress. We fly people to the Mayo
24 Clinic, to cancer hospitals in Tennessee, places
25 where they're specializing in treatment and only a

1 private plane can get them there.

2 I'm a member in good standing of the National
3 Association of Realtors, the Illinois Association of
4 Realtors, and the Realtor Association of Northwest
5 Chicagoland.

6 I've been a member of the Experimental Aircraft
7 Association since 1971. That association promotes
8 the grassroots aviation in America, homebuilding,
9 personal flying, and actually it's grown to be the
10 first or second largest organization in the world
11 for that, and it does, in fact, host the largest
12 convention in the world for aviation.

13 On a local basis, as a representation of good
14 character, I'm currently nominated for president of
15 my local chapter of the Experimental Aircraft
16 Association in Lake County, Illinois, the second
17 largest county in Illinois, and that would be for
18 presidency for 2008-2009 of that chapter.

19 I'm a member of the Council of Residential
20 Specialists. This is a group of Realtors that want
21 to raise the bar, hold ourselves to higher standards
22 of both ethics and professional expertise.

23 I'm currently -- let's see, as a Young Eagle
24 Pilot, which is a program sponsored by the
25 Experimental Aircraft Association, I've provided, at

1 this time, over 650 missions or flights to introduce
2 American youth to the character-building experiences
3 of general aviation in America. Also that's been at
4 a personal expense of approximately \$15,000. I
5 didn't have time to go through all my tax forms.

6 And I've also donated approximately \$8,500 in
7 cash to further support the Young Eagle Program and
8 to promote aviation awareness and kinship in America
9 and throughout the world.

10 As mentioned, I voluntarily participate in
11 PADS. And, by the way, I take the 11:00 to 3:00
12 shift because it's the hardest one to staff.

13 Also, Habitat for Humanity, I've help build
14 homes for people that can't afford them. I've also
15 been a contributor to the gang outreach and tattoo
16 removal programs in our county.

17 I'm almost done, Your Honor.

18 My other charities include Little City, which
19 is a home in Palatine, Illinois, for developmentally
20 challenged people. I'm a yearly contributor to the
21 Avon Walk for Breast Cancer. I've supported various
22 AIDS benefits. I'm a member of Friends of MiGs
23 Airport, and also a donator to the World Quest
24 Foundation which is a dissolved foundation, but it
25 was to put a manned balloon around the world nonstop

1 right before Steve Fossett captured that honor. But
2 that was a program built by the Rutans. You may
3 know Burt Rutan is the man who invented the first
4 civilian spacecraft to go into space, and he's
5 currently working with Virgin Airlines to do this
6 commercially.

7 On a personal note, I've shoveled my neighbor's
8 snow for 14 years. She's a widow. There's also --
9 we had a real estate client, they were out of the
10 country, there was a problem with their furnace,
11 their pipes froze, they called us, my wife and I
12 stepped in and saved the house from total
13 disintegration, anyway, and probably saved the
14 insurance company \$150,000 rebuild cost, and ended
15 up having to manage that pretty much *pro bono* for
16 eight months to get that all taken care of.

17 As far as character is concerned, that's all I
18 have to add. And I think that's the only question
19 that needs to be addressed in the denial, is that
20 correct, sir?

21 MR. CHISENHALL: That's correct, and I'll
22 discuss that later.

23 THE COURT: I have a question. The troubles
24 that you were in back in the '80s, the conviction
25 for cannabis and the conviction for crack cocaine,

1 is that documented in your file?

2 MR. BARNES: Yes, sir, it is.

3 THE COURT: In the exhibit here? So I don't
4 need to go into that with you at this time. Is
5 there anything you want to tell me about the
6 circumstances of that situation?

7 MR. BARNES: Only, sir, that -- and I regret
8 that I had a period of addiction, serious addiction
9 to cocaine. I was blessed, I think, with
10 incarceration instead of death. And during that
11 time, in fact, I worked to rehabilitate myself. I
12 participated in Narcotics Anonymous and Alcoholics
13 Anonymous.

14 While in prison I also participated in a
15 pioneer program for substance abuse, education and
16 prevention. It's a 12-week program offered
17 throughout the Illinois Department of Corrections
18 system. I participated in the first 12 weeks, and
19 then came back as a facilitator for the next 12
20 weeks.

21 Also during that time I was able to work on the
22 institution newspaper and put together a four-page
23 centerfold 11-by-17 flyout of resource places for
24 people who have no place to go after incarceration,
25 where they can find housing, shelter and jobs.

1 And I've been drug-free ever since, and I'm
2 very glad for that, and I've done my best to be a
3 good citizen.

4 THE COURT: Any questions?

5 MR. CHISENHALL: Yes, Your Honor. Thank you.

6 THE COURT: Okay.

7 CROSS EXAMINATION

8 BY MR. CHISENHALL:

9 Q Mr. Barnes, as you know, my name is Gar
10 Chisenhall, and I represent the Florida Real Estate
11 Commission.

12 I need to clarify some facts about your
13 criminal record, because the exhibit we have has some
14 good information, but it's not incredibly detailed.

15 A Okay.

16 Q Now, the application file indicates that in
17 November of 1985 you were pulled over for driving 53
18 miles per hour in a 40-mile-per-hour zone.

19 Is it correct that this incident resulted in
20 two convictions: number one, manufacture and delivery of
21 a controlled substance; and number two, possession of a
22 controlled substance?

23 (Cellular telephone ringing.)

24 MR. BARNES: Pardon me, Your Honor. I'll turn
25 that off.

1 THE COURT: Thank you.

2 MR. BARNES: Try to turn it off. It's not
3 turning off. There we go.

4 I believe that's the case. I can't be sure. I
5 know these better from the court dispositions than
6 the police records. It was -- I provided court
7 dispositions as required by the State in the
8 application. Getting police records was an
9 afterthought or a response to a letter from your
10 Department.

11 It most likely -- well, certainly, it is as
12 documented. There really was no delivery there, but
13 I believe it's forwarded into a charge called
14 possession with intent to sell, which is related, I
15 think, to manufacture and delivery.

16 So I'm, you know, I'm not sure. There was a
17 couple of arrests.

18 BY MR. CHISENHALL:

19 Q It sounds about right?

20 A Yes.

21 THE COURT: What were the quantities involved?

22 MR. BARNES: I'd have to check. I think a few
23 grams, Your Honor.

24 MR. CHISENHALL: I think that information is in
25 the file in Exhibit 1.

1 THE COURT: Okay.

2 MR. BARNES: Yes.

3 THE COURT: Go ahead, counselor. I'm sorry for
4 the interruption.

5 BY MR. CHISENHALL:

6 Q Okay, Mr. Barnes, at the time of this incident
7 in November of '85, how old were you, approximately? It
8 was 22 years ago?

9 A It was 22 years ago. I'm 60 today, so --

10 Q So 38?

11 A Yes, sir.

12 Q Now, for these two charges, how much prison
13 time resulted from these two charges? That was a little
14 unclear from the record as well.

15 A That's hard for me to translate that,
16 basically, you know, going back to police records because
17 they take these things, they roll them into other cases,
18 they bundle them up together.

19 Q Yes.

20 A Here's what I did, I did two consecutive four-
21 year terms, because, as you'll see, there was a November
22 and then there was a February traffic stop. In Illinois,
23 if it's for the same charge, the sentences must be
24 consecutive.

25 Q Mr. Barnes, can I ask you just when I ask you a

1 question, just answer it, and if you want to elaborate
2 later, then you'll get a chance to redirect.

3 A Four years, I believe.

4 Q So overall, would you consider your four
5 convictions, overall you served four years in prison?

6 A Overall, I served eight years. In Illinois,
7 you basically serve day for day. So it's a net time in
8 prison of four years, and then I got the maximum off for
9 good behavior, which was either three or six months as
10 well, for good conduct.

11 Q Okay, thank you. So were you released about in
12 1990?

13 A Yes, sir.

14 THE COURT: Can I jump in and ask a question?

15 MR. CHISENHALL: Certainly.

16 MR. BARNES: Sure.

17 THE COURT: I haven't looked at this exhibit
18 yet so I have to ask this question.

19 You were -- there were two situations where you
20 were arrested?

21 MR. BARNES: Ultimately, Your Honor, there were
22 three. There were two traffic stops and there was
23 one sale of cocaine for three and a half grams to a
24 police officer.

25 THE COURT: Okay. Now, that was the crack or

1 the cannabis?

2 MR. BARNES: Well, actually, there was no
3 crack. It was just cocaine back in those days.
4 Three and a half grams was the cocaine. And when
5 they came to my house, they found about ten or 12
6 ounces of cannabis. It was back when it was 25 or
7 30 an ounce. I have no idea.

8 THE COURT: So -- and this is all in the
9 exhibit, the different incidents?

10 MR. BARNES: Yes, sir. The police reports are
11 in there, as requested by the State. And the court
12 dispositions, again, to me, make more sense because
13 that's where the time was served and how it --

14 THE COURT: Okay. And you did a total you said
15 of approximately eight years' incarceration?

16 MR. BARNES: Well, no. An eight-year sentence,
17 I did four years' incarceration; actually, three and
18 a half years. I was released in June of 1990, I
19 went in in November, so I believe that's a
20 difference of six months.

21 THE COURT: And you had, what, some probation
22 or parole afterwards?

23 MR. BARNES: There was a two-year parole. I
24 believe I was released from that early. All terms
25 and conditions of that were met.

1 THE COURT: Did you ever have your civil rights
2 restored?

3 MR. BARNES: I've been voting ever since, so
4 yes, sir, my civil rights, that I know, have been
5 restored.

6 THE COURT: You've been voting ever since?

7 MR. BARNES: Yes, sir.

8 THE COURT: So you've been voting since 1990?

9 MR. BARNES: Yes, sir. Well, my first election
10 could have been '91.

11 THE COURT: Yes, okay. Voting -- since your
12 release, you've voted?

13 MR. BARNES: Yes, sir, every senatorial,
14 presidential, and some local elections.

15 THE COURT: So it would be fair to say most
16 elections, anyway?

17 MR. BARNES: Yes, sir.

18 THE COURT: Did your involvement with aircraft
19 predate this?

20 MR. BARNES: Yes, sir, it did. I was an active
21 pilot, got my license -- started flying in '72, got
22 my license I believe in '74, but then only got about
23 200 or so hours, a couple of years, two or three
24 years, and then I divorced, and as such, I went back
25 into the singles community.

1 In the singles community, I went to nightclubs
2 and danced and stuff, plus I was working out of
3 town, working a 12-hour-a-day schedule. There's no
4 time to fly, but, in addition to that, there's an
5 eight-hour law bottle to throttle that, you know,
6 even if I had been active, I still would have abided
7 by that and not bothered trying to fly, anyway, if
8 it was a question of weekends or whatever.

9 And plus, on a divorced person's income, there
10 was no money to fly, so my flying was basically
11 dormant from probably around '76, '78 through 1997,
12 okay?

13 There was never any action taken against my
14 license. In fact, at the time I don't believe the
15 laws were in place to do that. They are today.
16 Full disclosure has been made to the FAA and also
17 the FAA medical examiner, so I'm duly licensed and
18 medically certificated to fly aircraft.

19 THE COURT: Go ahead, counselor.

20 MR. CHISENHALL: Thank you, Your Honor.

21 BY MR. CHISENHALL:

22 Q So you were paroled in 1990, is that correct?

23 A Yes, sir.

24 Q And you were on probation for two years?

25 A No, I was on parole for two years after. And I

1 believe it was dissolved early, but it's one of those
2 things, you show up every month, then they say don't
3 bother showing up unless we call you, and then you get
4 some letter saying you've satisfied it, and that's --

5 Q All right, thank you. So at the time of this
6 incident in November of 1985, what was motivating you to
7 risk incarceration by transporting so much cocaine? What
8 was going on with you at that time in your life?

9 A I was a cocaine addict.

10 Q Do you want to add anything else?

11 A A cocaine addict is generally someone who is
12 not going to be without cocaine. So it wasn't a question
13 of transporting it. You know, your habit goes with you
14 wherever you are.

15 Q Okay. Now, what led you to become involved in
16 illegal drugs in the first place? Where and when did
17 that start?

18 A I just ran into an acquaintance at one time who
19 said, "Well, try this." And I was having some drinks and
20 it seemed to counteract the effects of alcohol. So if
21 you're a person engaged in, you know, out drinking,
22 dancing, whatever, it has a certain appeal. And after
23 that, it has an addictive strength that pretty much takes
24 over.

25 Q When did you take your first cocaine hit?

1 A I would say I probably took it around 1980 or
2 '81.

3 Q All right. So in addition to -- excuse me, at
4 the time of the November, 1985, incident, were you
5 working?

6 A Yes, I believe I was.

7 Q What were you doing then?

8 A IT consulting.

9 Q Were you doing that as a self-employed or were
10 you working for someone?

11 A Well, self-employed, and as a consultant I
12 generally work with other companies who broker my
13 services.

14 Q All right, thank you.

15 Now, the application filed also indicates that
16 on February 18, 1986, you were pulled over driving
17 erratically.

18 Is it correct that this incident resulted in
19 two more convictions, one for manufacture and delivery of
20 a controlled substance and another for possession of
21 marijuana?

22 A I'm not sure exactly, because I know there's
23 manufacture and delivery and there's possessions, but --
24 probably, most likely.

25 Q Okay. One thing I was curious about, now,

1 you're already arrested in November of '85. Given the
2 very short time span between November of '85 and February
3 of '86, what was your motivation for risking
4 incarceration so soon after being arrested one time?
5 What was going through your head that caused you to be
6 transporting cocaine again?

7 A Well, in a word, cocaine was going through my
8 head. I was an addict to cocaine, and as such was really
9 under the control of the disease of addiction.

10 So it wasn't a conscious thing that, let's go
11 out and get arrested again. Quite to the contrary, it
12 was despite all things the addiction prevailed.

13 Q Okay. At this time, in February of '86, were
14 you still employed as an IT consultant or self-employed?

15 A Yes.

16 Q One thing I wanted to ask you about, you
17 mentioned there was a third incident. Could you describe
18 what that was?

19 A During the -- during the period, and this is in
20 the dispositions, between and around November, an
21 acquaintance --

22 Q In November of -- November of what year?

23 A '85.

24 Q Okay.

25 A An acquaintance introduced me to an undercover

1 officer. Well, and actually the acquaintance made a
2 purchase, not the officer, of three and a half grams of
3 cocaine, and I'll stipulate that that's been disclosed in
4 the form of court dispositions. It was --

5 THE COURT: In the form of what?

6 MR. BARNES: Court dispositions, Your Honor.

7 BY MR. CHISENHALL:

8 Q Well, I'm sorry, let me get this straight. So
9 in November of '85 a friend introduced you to an
10 undercover officer?

11 A Yes.

12 Q And so who bought the three and a half grams of
13 cocaine?

14 A Well, the friend actually did, but the --

15 Q So the friend bought the cocaine from the
16 officer?

17 A No, the friend bought it from me, but in the --

18 Q Presence of?

19 A -- presence of or employ of an officer. And
20 they came to my house, I believe, either in February or
21 March that year and actually did the arrest and found
22 additional cannabis.

23 Q Did you get the binder? You've got the binder
24 in front of you.

25 Under tab 1, you said that this was disclosed

1 to the Commission. Could you -- if you look at the
2 bottom right-hand corner of every page, there are page
3 numbers. Could you point out to me where this particular
4 conviction is described?

5 A These -- all these convictions are on pages 26
6 through 35, 26 through 35.

7 Q Now, where is it mentioned -- where is this
8 particular conviction described, though?

9 A At page 27 and/or 29 and/or 31 and/or 33 and/or
10 35.

11 Q Okay. So 27, 29, 31, 33 and 35?

12 A Yes, sir.

13 Q Now, you said that you sold cocaine. Were you
14 -- was this -- how often did you sell cocaine back in the
15 '80s? Was this an isolated incident, or was this
16 something you did on a regular basis?

17 A I believe there was a pattern of this. This
18 was the only specific arrest for it.

19 Q Okay. So you started taking -- you took your
20 first cocaine hit in 1980. When did you start selling
21 cocaine?

22 A I can't recall.

23 Q And -- but the incident in November of '85 was
24 the last time you sold cocaine?

25 A Yes, sir.

1 THE COURT: You'd been out -- I presume you
2 were out on bond for the previous offenses prior to
3 the February, March, '86 --

4 MR. BARNES: Yes, sir.

5 THE COURT: -- search of your house?

6 Was your bond revoked at that time on the
7 previous offenses, or --

8 MR. BARNES: No, sir, but I was incarcerated
9 again on the subsequent offense in February and/or
10 the arrest in March. I served 48 days in county
11 jail before making bond. So actually those 48 days
12 are included with the out date of June, 1990, and
13 then I was on bond and straight basically from
14 February of 1986 to today.

15 MR. CHISENHALL: Do you have any more questions
16 at this time, Your Honor?

17 THE COURT: No.

18 BY MR. CHISENHALL:

19 Q Mr. Barnes, I'd like to ask you some questions
20 about your education/employment history.

21 Where did you go to college?

22 A I went to college at the Chicago Conservatory
23 College of Music from 1967 through '68. That was two
24 years, but I was able to acquire three years' worth of
25 credits because they put me into private study as an

1 advanced student despite no formal training.

2 At the same time, I started working, got
3 married, had a child, had to give up that college. Spent
4 about one year in computer operations within -- was put
5 into a management position in about six months and toward
6 the end of the first year --

7 Q We'll get into that.

8 A -- got back into college.

9 Okay, I also attended Northwestern University,
10 a year and a half of graduate school, as a special
11 student in industrial engineering and computer science.

12 Q Okay.

13 A Sorry.

14 Q That's okay. I'm going to ask you so many
15 questions. It's like a series. It's like a little
16 portion here, and then I'll move again to another little
17 portion, so if you don't --

18 A Small bites.

19 Q Yes, yes. So don't feel like -- if I ask you a
20 question, don't feel like there's not going to be
21 anything else, any follow-ups. I'm asking -- I'm trying
22 to get like an overall sequential picture of everything.

23 A Okay.

24 Q So you attended the Chicago Conservatory
25 College of Music from '67 to '69. You didn't graduate,

1 but you went on another track, and this was -- this is
2 when you got into computers?

3 A Yes, sir.

4 Q Okay, and you --

5 A Actually, I also got into computers in '67. So
6 I graduated high school in '66, it was '66 through '68 at
7 Chicago Conservatory College. But I didn't really start
8 in '68, though, so that was like the end of the second
9 year, '66 through '68.

10 Q When you were at the music school, were you --
11 what were you studying, an instrument or voice or --

12 A I was really studying theory and composition,
13 which is the practice of writing music. I was a self-
14 taught pianist. As such, they would never have me as a
15 piano major. But with demonstrated writings, they
16 accepted me as a student of theory and composition.

17 Q Now, you mentioned that you went to
18 Northwestern University?

19 A Yes, sir.

20 Q What were you studying then?

21 A Industrial engineering and computer science.

22 Q Was that as an undergrad or a graduate?

23 A That was, actually it was graduate courses as a
24 special student, because I have never obtained a
25 Bachelor's degree.

1 THE COURT: And the years for that, what years
2 did that encompass?

3 MR. BARNES: I believe I was at Northwestern
4 from '68 through '70.

5 BY MR. CHISENHALL:

6 Q So did you complete your coursework at
7 Northwestern?

8 A Well, I did, because it was specifically for
9 the professional practice of information technology. I
10 wasn't -- I should have actually worked with the
11 professor I was working with and gone ahead and got a
12 Master's while the getting was good because I was
13 basically working with and for a professor at the time,
14 but I wasn't really in a degree program. I was a special
15 student, began -- with that, you don't have to meet the
16 prerequisites of a Bachelor's degree.

17 THE COURT: That's interesting. Could you
18 expound on that a little bit? That's unusual that
19 you would not have to get a Bachelor's before you
20 get a Master's.

21 MR. BARNES: Well, I talked to various
22 professors, and I was attending there because of
23 professional reasons. Again, I believe I had
24 already had about a year under my belt in
25 information technology. I worked into a management

1 position. And at the time, and this is in the dawn
2 of the computer era, if you were a serious
3 professional, you might know as much as your
4 professors.

5 THE COURT: Right.

6 MR. BARNES: So there's a give-and-take there.
7 And, of course, they had something I could benefit
8 from, and they saw fit to let me attend graduate
9 classes, and I did that for about a year and a half.
10 I took courses in operating system design
11 development, database design and human factors
12 engineering.

13 In fact, the one professor -- God rest his
14 soul, he passed away -- had worked for Sperry Rand.
15 Some of you may be too young to know who that is,
16 but they invented the UNIVAC computer, and he was
17 also a founder of the science of human factors
18 engineering, which stops people from crashing
19 airplanes by poor cockpit design, et cetera.

20 So he was a great professor, and I was blessed,
21 I guess, with the ability to study with him and work
22 through that program. It dovetailed with my
23 professional background. It was a lot of work, and
24 I was basically doing about 80 hours a week between
25 school and work, but it was just that was the kind

1 of college I could get.

2 THE COURT: Thank you.

3 BY MR. CHISENHALL:

4 Q So when you graduated from Northwestern in
5 1970, what exactly did you have a Master's degree in?
6 Was it like -- for example, I have a Master's in Business
7 Administration. What was the topic of your degree?

8 A Okay. Unfortunately, I didn't get a Master's.

9 Q Okay.

10 A Part of the special student program is you're
11 getting the education, you're not getting a certificate
12 or diploma.

13 See, had I made arrangements, I could have made
14 them, but I never did. I was very busy professionally.

15 Q Okay. So you did the coursework that's
16 required to get a Master's degree?

17 A Yes.

18 Q But you didn't do the -- jump through the
19 hoops, so to speak, to get the piece of paper?

20 A Right, yes.

21 Q But if you had, what would the piece of paper
22 have said?

23 A I probably would have a Master's in Science and
24 Industrial Engineering.

25 Q So was that the -- so in that period, in 1970,

1 was that the last formal education you've had in the
2 college or university setting?

3 A No. I've taken various courses at a community
4 college just to learn languages, like JAVA, C++ and
5 Visual Basic that I don't get to gain experience in
6 professionally because my skills are used on different
7 platforms, different languages. I take those courses,
8 should the need arise, I'm able to qualify for consulting
9 engagements in those fields.

10 I've also probably been through over a hundred
11 hours in various professional training programs that may
12 or may not have been at structured universities. They
13 might be professional sponsored organizations.

14 Q All right, thank you.

15 What was your first job after finishing your
16 coursework at Northwestern?

17 A Well, actually, my first job really started
18 before my coursework at Northwestern, started September,
19 1967, with Montgomery Ward's as a junior computer
20 operator trainee, 2.50 an hour, the prevailing minimum
21 wage.

22 I worked with Montgomery Ward's for seven
23 years, that was simultaneous to college, and I was
24 promoted through ten positions in management.

25 Q What was the title of your last position there?

1 A I was a project leader, responsible for the
2 credit authorization system of Montgomery Ward's, for the
3 national program, at the time, leader, literally a leader
4 in on-line credit processing and rating. We invented
5 credit scoring. I worked for the gentleman who went to
6 Washington to write the Fair Credit Reporting Act, so
7 that was a great, great privilege.

8 Q What was that, a project leader, what was that
9 job title again?

10 A Project leader, system development in the
11 on-line credit authorization system. We were the first
12 company to tie a cash register to a mainframe computer
13 and also high-speed credit approval computer.

14 Q So that takes us up to about 1974?

15 A Yes, sir.

16 Q What did you start doing after you left
17 Montgomery Ward's?

18 A From that time, '74 through '77, I was a
19 managing consultant with a prominent Chicago firm.

20 Q What was the name?

21 A The name was Applied Information Development.

22 Q Okay, and what did you do after that job?

23 A In 1977 I became a sole proprietor, a sole
24 practitioner at IT Consulting Services.

25 Q So you became self-employed?

1 A Yes.

2 Q Why did you leave your job with Applied
3 Information Development?

4 A Double the earnings.

5 Q Because you could make more doing --

6 A Yes, sir, I --

7 Q Okay, that's a good reason.

8 Okay. So you were self-employed from 19 -- you
9 were self-employed in information technology from 1977
10 until -- how long did that last, or --

11 A Well, up to my incarceration. And then
12 immediately after my incarceration, 1990, if I can move
13 ahead a little bit, I actually wasn't a sole -- well, I
14 was a sole proprietor. No, no. I became actually an
15 employee, a W-2 employee, for that arrangement, and I had
16 one client, a large phone company called Ameritech, from
17 1990 through 1995, for five years.

18 I think what I liked about that was that was
19 one year more than I spent in prison as a demonstration
20 of rehabilitation.

21 THE COURT: This is from '90 until '95?

22 MR. BARNES: Yes, sir.

23 And I helped Ameritech consolidate the billing
24 systems for five states, which was the Ameritech
25 region they call that, consolidated those divisions,

1 put it all under one single billing system.

2 BY MR. CHISENHALL:

3 Q So just to clarify, from 1990 to 1995 you were,
4 again, self-employed in the information technology field,
5 but at this time did you only have one client, being
6 Ameritech?

7 A Yes. Well, one client, actually it was with a
8 company called Indecon. Indecon was really the client,
9 and they brokered my services to Ameritech as a preferred
10 vendor.

11 Q How do you spell Indecon?

12 A I-n-d-e-c-o-n.

13 Q Okay, so even though you only had one client,
14 this one client took up at least 40 hours a week?

15 A A little bit more so.

16 Q This was full-time?

17 A Yes.

18 Q You're still working full-time?

19 A Yes, probably closer to 60 hours a week.

20 Q So in 1995, so after your work with Indecon
21 ended, what did you start doing then?

22 A In 1995 I went with a technology, a software
23 development firm in Woodstock, New York. Well, actually,
24 I was employed to them as a consultant from my company,
25 JCB Enterprises. And that client retained me from 1995,

1 September, through 2001, until the World Trade Center was
2 struck by aircraft.

3 We developed a software system to dice and
4 slice Nielsen daily diaries, Nielsen ratings data, and
5 provide that software to network stations, producers,
6 people who buy and sell TV time. That's how they can
7 evaluate their times, by knowing and understanding the
8 ratings.

9 Q So were you, from '95 to 2001, were you like a
10 contractor for a software development firm?

11 A I was a contractor, yes, to that firm.

12 Q It's kind of like how the Department of Defense
13 contracts out with Boeing or a shipbuilder --

14 A Yes.

15 Q -- in that way?

16 Okay. Now, once this contract relationship
17 ended, then what did you do?

18 A Well, I spent the first nine months after 2001,
19 September 11th -- or 2001, actually looking for another
20 engagement because the economy had dried up. I lost the
21 media software thing because all the ad revenues
22 evaporated. And I would say then I got a consulting
23 engagement for another three years with a firm called
24 InfoStaff.

25 Q And so I guess that would be from '02 to '05?

1 A Yes, '02 or '04, you know, because it's like
2 inclusive.

3 Q Okay. What was the name of --

4 A InfoStaff.

5 Q InfoStaff. Okay, and after that contract
6 ended, what did you do next?

7 A Went on to a contract with Oak Enterprises.
8 And incidentally, there's a reference from the president
9 of Oak Enterprises in this.

10 THE COURT: Are you saying Yoke or --

11 MR. BARNES: Oak as in the tree, Oak
12 Enterprises --

13 THE COURT: Got you.

14 MR. BARNES: -- has been my client since late
15 2004, 2005, to date. Tim Waterloo would be the --

16 BY MR. CHISENHALL:

17 Q Okay, so all this time, you've been an IT
18 consultant. When did the real estate work start?

19 A The real estate work -- and again, sometimes
20 when I say I've been with a firm, it's not like you leave
21 one consulting engagement, you immediately have work the
22 next day, so there was -- in the engagement before that
23 and since 2001, September 11th, consulting rates for IT
24 consultants have gone down because of globalization and
25 competition in the marketplace.

1 So I was able to in 2004 get a real estate
2 license in Illinois to supplement and offset the effects
3 of globalization in IT by providing income through real
4 estate. So that's December, 2004.

5 Q Did you get your first license in Illinois?

6 A In Illinois, December, 2004.

7 Q And is that when you went to work with your
8 wife?

9 A Yes.

10 Q Have you worked for any other brokerage firms?

11 A No.

12 Q Let's see, now, you're -- during your earlier
13 testimony you said that you have a real estate license in
14 Illinois, Wisconsin, you've --

15 A Made application to Oregon.

16 Q Okay. And just an application to Oregon?

17 A Right, and Washington.

18 Q Washington state?

19 A Yes.

20 Q And those applications are pending in Oregon
21 and Washington state?

22 A Right.

23 Q Why do you need to have -- and you've got an
24 application pending in Florida, of course. Why do you
25 have to have licenses in so many states spread so far

1 across the country?

2 A Because I have clients who would like to buy
3 and sell property in these locations. Also I have a
4 particular -- I like Florida and I like Oregon, I like
5 Washington. I have friends and family that actually
6 graduated high school in Oregon, and my sister right now
7 lives in Port Townsend, Washington. I happen to like the
8 country, I like the weather, I like the people, as much
9 as I do, I like Florida, I like the weather, I like the
10 people. And I'd like to be able to move there at some
11 time, and obviously I'll need to earn a living wherever I
12 go, so it makes sense to get licensed in those places.

13 Q These clients you mentioned, where are they
14 based, or where -- are they clients in Illinois that have
15 interests in Washington, Oregon and Florida?

16 A They're clients in various states of America,
17 Texas, California, Oregon, Illinois, Florida, okay, so
18 clients from a lot of America.

19 Q I mean, I guess, how did you come to acquire
20 these clients, or how did they pick your brokerage firm?

21 A Well, actually, I have one client who -- I
22 can't disclose anything, Realtor-client privilege, but
23 one client who happens to own a bank, walked into an open
24 house and had me working as a buyer representative ever
25 since, okay? Another client came to me as a referral.

1 Most of my clients, in fact, are from referrals.

2 Q Why don't they -- I mean, just out of
3 curiosity, wouldn't it be easier for them to hire a
4 Realtor who was based in those states rather than hiring
5 a Realtor based in Illinois?

6 A Well, it's not a question of what's easy, it's
7 a question of what people are comfortable with, if they
8 know and trust a Realtor and they know and trust that
9 Realtor is going to work for them 100, 110 percent of
10 their ability, and they like the kind of work and they
11 trust, they prefer to stay with that Realtor. I mean,
12 beyond a doubt. It's a question of, you know, you stay
13 with who you know and trust. You don't just say, well,
14 let me get a phone book here and find a Realtor.

15 Q Are these commercial clients or are they
16 individuals looking to buy a home in some other state?

17 A These are primarily residential, but I wouldn't
18 rule out the possibility it could be commercial as well.
19 I mean, it's whatever detail of real estate might
20 accomplish is what I can service them with.

21 Q Okay. So are these individuals, are they -- do
22 they live in Illinois and they come to you through
23 referrals or previous dealings, and they come to you and
24 say, you know, Jeff, I would like to buy a house in
25 Washington state or a retirement home in Oregon, is that

1 the kind of contacts?

2 A Yes, it's kind of like that. They -- some live
3 in Illinois, some don't consider that their primary state
4 of residence, but they have properties in Illinois,
5 that's how I came to know them. And yes, they've
6 expressed, literally expressed interest in Florida,
7 Oregon, Washington, as well as Illinois.

8 In regards to Wisconsin, it's very common, I'm
9 sure it's common in Tallahassee even, I live within 20
10 miles of the Wisconsin border, and I would say about 40
11 to 50 percent of the Realtors in my area are licensed in
12 Wisconsin because somebody can decide to buy a home, you
13 know, right across the state border, you know, they like
14 this subdivision, the prices are a little less, income
15 taxes are a little more, you know, the commute.

16 Q So you're -- well, I can certainly understand
17 why you would want to get a license in Wisconsin because
18 it's right across the border.

19 So is your decision to get these other licenses
20 driven by, you've got several people coming to your
21 office and saying I'd like to buy something in Oregon or
22 Washington, and then your thought process says, oh, I
23 need to -- in order to satisfy these clients I need to go
24 get a license in one of these states? Is that what's
25 going on, or --

1 A Yes. Without specifically stating, yes, I will
2 get you a house today in those states, they have
3 expressed interest in those geographic locations, and I
4 said, well, jeez, I'll get a license in those places,
5 okay?

6 Q Just based on your experience, I mean, not
7 including Florida, how long does it take to get a real
8 estate license in Oregon, Wisconsin or Washington?

9 A Well, the amount of clock time varies, but
10 Illinois, and if it's okay with the Court, I'll be
11 updating my application within a few weeks, I hope,
12 because I've applied for a broker's license in Illinois.
13 I've passed -- done the study and passed the exam.

14 The educational requirement for that was 75
15 hours, but that's on top of 45 hours for a salesperson.
16 So for Illinois, I've had a total of 120 hours of
17 education, contrast to Florida's 75.

18 I did that on-line and thinking, well, it might
19 be convenient, and I can fit it in my schedule, take an
20 Internet-based course. The problem with that is you
21 study every single page of the book instead of, you know,
22 if you go through 75 hours of classroom, they say this,
23 this and this is on the test, this isn't, flip, flip,
24 flip. So it really took me about six, seven months to
25 study for my broker's exam in my evening hours and

1 weekend hours for brokers.

2 Now, Oregon will have -- they're abolishing,
3 basically, a sales associate or salesperson's license.
4 They go for pretty much broker-only qualifications,
5 education, and that's 145 hours. I haven't begun that
6 class of study yet.

7 Q Do any of these states have licensure by
8 endorsement where, for example, if I'm licensed in
9 Florida, North Carolina will recognize that and give me a
10 North Carolina license?

11 A Sure. Indiana, you take somebody from Indiana,
12 they apply and they say you're good to go. In Florida,
13 Florida has that, they don't have that, we call it
14 reciprocity in Illinois. In Illinois, we only have
15 reciprocity in Wisconsin and Indiana. We can waive the
16 educational course requirements; we still have to pass
17 the test.

18 Washington state, you don't have to take the
19 national part of the exam, they acknowledge your existing
20 license for the national, but you're required to take the
21 state portion of the exam.

22 Oregon, you take everything, education and all
23 of the exam.

24 And Florida, not being one of the seven or
25 eight states that are reciprocal, I'm required to take 75

1 hours of classroom or -- well, education, Internet or
2 classroom, to pass my exam.

3 Q Mr. Barnes, I just have a few more questions.

4 How long have you been attending First
5 Presbyterian Church in Libertyville, Illinois?

6 A Actually, ten years, since about 1997, when I
7 got married, perhaps a little bit before that, but we
8 didn't really -- I think 1997. So I attended as a non-
9 member and then joined in 2002.

10 Q All right. Did you attend church before your
11 arrest in November of '85?

12 A Yes, I did. I attended my brother's church,
13 the Evangelical Free Church of Wauconda, but not as a
14 regular member. When I say "attended," I would say
15 Easter and Christmas.

16 Q That kind of matches my attendance record,
17 actually.

18 A You know, it only gets better from there.

19 Q Yes. What were the time frames for this? Did
20 you -- was this -- like what can you remember, I mean,
21 when did you start to --

22 A My brother, I started going to Evangelical Free
23 Church of Wauconda when my brother became an associate
24 pastor there. You know, he had just moved to Missouri,
25 he had 26 years, so I think early '80s.

1 Q Okay.

2 A He became installed as an associate pastor and
3 youth director. He moved up to senior pastor.

4 Q Okay.

5 A And just moved up to pastor.

6 Q Were you, Mr. Barnes, were you involved in any
7 religious activities while you were in prison?

8 A Yes, yes, I was, in fact. I attended church
9 services every Sunday when and where I could. Some
10 institutions, it's not that easy. Due to just errors in
11 processing and management, I ended up with one and a half
12 years in maximum security positions -- prisons instead of
13 mediums. It was much harder to attend church.

14 Once I got to a medium, though, I attended
15 regularly. In addition to that, I was the church pianist
16 and the piano player. I had a little plastic keyboard
17 for our caroling sessions as well as the institutional
18 band.

19 Q After your release from prison, when did you
20 start attending church again?

21 A Right away. I began attending Presbyterian
22 churches in Park Ridge, Illinois, where I was residing,
23 and, of course, my brother's church. That was in 1990.
24 And actually various churches until I settled down with
25 my wife.

1 I really -- after incarceration, I attended my
2 brother's church far more regularly. I've always
3 believed in God, but, you know, if I can introduce a
4 specific religion, I basically accepted Jesus Christ in
5 1986 in Cook County Jail, a great place for salvation.

6 Q Thank you very much.

7 MR. CHISENHALL: I don't have any more
8 questions on cross-exam.

9 THE COURT: All right. Anything else you want
10 to tell me, Mr. Barnes?

11 MR. BARNES: No, sir.

12 THE COURT: Okay. We have concluded, then, the
13 testimonial portion of our proceeding unless the
14 State has something to offer.

15 MR. CHISENHALL: Well, Your Honor, the
16 procedure today has been kind of unorthodox because
17 of logistics.

18 THE COURT: Oh, you mean the telephones?

19 MR. CHISENHALL: Yes, sir. I intended to give
20 an opening statement, just kind of laying out what
21 things were about here. But it seems like you
22 pretty much have an idea what we're here about
23 today.

24 THE COURT: No, I have no idea what we're here
25 about. Normally, the way an administrative

1 proceeding proceeds in front of me and most of the
2 ALJs here that occupy positions in this panel,
3 unless you request it, we usually breeze past
4 opening statements and go directly to the party that
5 has to go forward with the evidence, have them
6 proceed.

7 MR. CHISENHALL: Okay.

8 THE COURT: At the conclusion of the
9 evidentiary portion, which we've just concluded
10 here, unless you have something further to offer, I
11 explain to you the rules about presenting me with
12 your proposed recommended orders.

13 If, though, you feel it would be beneficial to
14 me in this forum, I'm more than happy at this time
15 to hear the statement that you would have made had
16 you known to call this to my attention.

17 MR. CHISENHALL: Yes, Your Honor, I would like
18 to do that. And also, as we both alluded to
19 earlier, there's something I would like to inform
20 you that will significantly narrow the issues when
21 you get around to digging into the exhibits and
22 reading the file.

23 THE COURT: All right.

24 MR. CHISENHALL: Now, as you're probably aware,
25 the Florida Legislature determined that it was

1 necessary to regulate real estate brokers and real
2 estate sales associates. To accomplish that
3 purpose, the Legislature created the Florida Real
4 Estate Commission, and that's under the Department
5 of Business and Professional Regulation.

6 As one of its duties, the Real Estate
7 Commission is tasked with determining who is and who
8 is not qualified to be a real estate broker or a
9 sales associate. Section 475.17, subsection (1)(a),
10 establishes a presumption that a licensure
11 applicant --

12 THE COURT: Now, you're going to give me all of
13 this later in a proposed recommended order, right?

14 MR. CHISENHALL: Yes, sir, I am. Yes,
15 absolutely.

16 THE COURT: All right. Go ahead, then. I will
17 devote my full attention to listening.

18 MR. CHISENHALL: Thank you.

19 Subsection (1)(a) establishes a presumption,
20 which is rebuttable, that a licensure applicant is
21 not qualified to be licensed if that person has been
22 guilty of conduct which would have been grounds for
23 revoking or suspending that license if that person
24 had been licensed at the time.

25 As I mentioned, that's a rebuttable

1 presumption, because the statute also provides that,
2 and I quote, "The applicant shall be deemed not to
3 be qualified unless, because of lapse of time and
4 subsequent good conduct and reputation or other
5 reason deemed sufficient, it appears to the
6 Commission that the interests of the public and
7 investors will not likely be endangered by the
8 granting of registration," unquote.

9 Also relevant to this case is Section 475.25,
10 subsection (1)(f), and that provides that the
11 Commission may deny a license or application if
12 someone has committed a crime of moral turpitude.

13 Now, in this case, when Mr. Barnes filed his
14 application with the Commission, it could not be
15 immediately approved because of his criminal
16 background. And you've already heard what those
17 convictions were for.

18 The Commission considered his application and
19 his testimony during a meeting held on July 18th of
20 this year, but the Commission ultimately decided to
21 deny his application, and that decision was set
22 forth in a Notice of Intent to Deny which was
23 rendered on August 8th of this year.

24 Now, here comes the part that I'm going to
25 narrow the issues for you. If you go to tab 1 of

1 the binder --

2 THE COURT: All right.

3 MR. CHISENHALL: -- and if you turn to page 4,
4 page number 4 is the first page of that Notice of
5 Intent to Deny.

6 THE COURT: All right.

7 MR. BARNES: Your Honor, mine goes right to
8 page 7.

9 THE COURT: You mean you don't have the first
10 four pages?

11 MR. BARNES: Perhaps they're out of order.

12 MR. CHISENHALL: No, I thought I looked through
13 all these.

14 Well, anyway, I can -- I faxed you a copy
15 before and I can get you --

16 MR. BARNES: Yes, I have it.

17 MR. CHISENHALL: Well, actually, you can look
18 on with me here.

19 MR. BARNES: Okay.

20 MR. CHISENHALL: But if you'll go to page
21 number 4, Your Honor?

22 THE COURT: I'm looking at it.

23 MR. CHISENHALL: You've got the title, *Findings*
24 *of Fact*, and you go to paragraph number 2, that
25 paragraph refers to a key for license denials, and

1 that key is on page number 7.

2 That key on page number 7 apparently lists
3 every conceivable finding of fact or conclusion of
4 law that could apply to these kinds of cases.

5 Now, if you turn back to page number 4, you'll
6 see on paragraph number 2, the Commission supposedly
7 found that findings of fact 1, 3, 4, 5 and 8 apply
8 to this case.

9 When I got the tape-recording from the meeting
10 that was held by the Commission --

11 THE COURT: When you're talking about 1, 3, 5,
12 and 8 --

13 MR. BARNES: And 4.

14 THE COURT: And 4.

15 MR. CHISENHALL: That refers to --

16 THE COURT: We're talking about crimes in
17 application, unlicensed practice --

18 MR. CHISENHALL: Yes.

19 THE COURT: -- and so forth?

20 MR. CHISENHALL: Yes, sir.

21 THE COURT: Okay.

22 MR. CHISENHALL: Right.

23 THE COURT: All right.

24 MR. CHISENHALL: Those are on the top of page
25 7.

1 Now, with regard to 3 dealing with unlicensed
2 practice, when I listened to the tape-recording of
3 this meeting, there was no discussion about Mr.
4 Barnes' having engaged in any unlicensed practice,
5 so in my opinion, that was a scrivener's error when
6 3 was marked down, so we're not dealing with that
7 today in this proceeding.

8 THE COURT: All right.

9 MR. CHISENHALL: And the same applies to
10 finding of fact number 8, *Other License Discipline*.
11 There was never any discussion that Mr. Barnes had
12 any licenses that were disciplined or revoked or
13 suspended.

14 So given all that, all we're dealing with here
15 today is whether Mr. Barnes has shown that he's been
16 sufficiently rehabilitated since his convictions in
17 the mid-1980s, and I'll discuss that more in my
18 proposed recommended order.

19 THE COURT: All right, "Crimes: A recent
20 applicant's criminal history is recent in time."

21 MR. CHISENHALL: That was the Commission's
22 opinion, and in their opinion, apparently they
23 thought 22 years is still recent in time, but it's
24 also --

25 THE COURT: All right. Where is the moral

1 turpitude?

2 MR. CHISENHALL: That is in the conclusions of
3 law. That is G in the bottom half of page number 7.

4 THE COURT: I notice that none of these boxes
5 are checked.

6 MR. CHISENHALL: Right, but they're noted on
7 page 4 and page 5.

8 THE COURT: "The key for license denial as
9 attached hereto as Exhibit A is hereby adopted and
10 incorporated by reference as the key to the
11 Commission's conclusions of law," okay. A, C, G,
12 and M, but you obviously fail on A, you presented no
13 evidence to rebut his --

14 MR. CHISENHALL: Right.

15 THE COURT: -- testimony that he votes.

16 MR. CHISENHALL: Correct. And there's actually
17 case law, I wasn't going to argue that point because
18 there's case law which says that, you know, he's
19 demonstrated that he apparently did have some rights
20 restored.

21 Also there's this case about, I think it's from
22 the First DCA or Second -- Fourth DCA, which talked
23 about restoration of civil rights not being a valid
24 basis by itself.

25 THE COURT: And there are other cases that say

1 also that if he's a licensed elector, there are
2 presumptions that they've been restored.

3 MR. CHISENHALL: Yes. Yes, Your Honor.

4 THE COURT: And you've not rebutted any of
5 that?

6 MR. CHISENHALL: Correct.

7 THE COURT: So I would think A on conclusions
8 is out, but that's -- I'll wait and deal with that
9 based on what you all present me.

10 MR. CHISENHALL: Yes, sir.

11 THE COURT: All right. Go ahead, counselor.

12 MR. CHISENHALL: And so, Your Honor, that's
13 really all I have to have and all I have to say, and
14 I'll discuss more in my proposed recommended order
15 about how Mr. Barnes has the burden of proof in this
16 case.

17 THE COURT: Okay, all right.

18 Now, Mr. Barnes, since you're *pro se*, have you
19 ever been involved in any administrative proceeding
20 in Florida before like this?

21 MR. BARNES: No, sir.

22 THE COURT: All right. So what you're going to
23 get at this time is, I have -- I have before me an
24 exhibit list which shows that we have admitted into
25 evidence today the disk for you and the binder on

1 behalf of the Respondent, and you also have
2 presented testimony of four witnesses counting
3 yourself.

4 Now, at this time you have the right to order a
5 transcript, either party does. Will either party be
6 ordering a transcript?

7 MR. CHISENHALL: The Commission will not be,
8 Your Honor.

9 THE COURT: The Commission will not be.
10 There's a cost associated with ordering the
11 transcript, for your information, Mr. Barnes, and if
12 you wish, you may have at this time an off-the-
13 record discussion with the court reporter in that
14 regard.

15 MR. BARNES: Yes, I'd like that discussion.

16 THE COURT: All right. We'll go off the record
17 a moment.

18 (Discussion off the record.)

19 THE COURT: All right. There is not going to
20 be a transcript ordered at this point in time.

21 Under the model rules that govern these
22 proceedings, the parties have ten days from today,
23 ten calendar days, within which to submit to me a
24 written recommended order as to -- a proposed
25 recommended order as to what you think I should

1 recommend to the Real Estate Commission.

2 Now, that, of course, under our rules, has to
3 be filed -- and listen closely, Mr. Barnes -- that
4 has to be filed in writing with the Commission with
5 copies -- I mean, not with the Commission, with the
6 Division here, that proposed order does, and then a
7 copy provided to the other side, to counsel here.

8 I'm going to place up here for both of you my
9 card which has on it my e-mail address here as well,
10 and I would like, in addition to your filing your
11 written copies with the Division, also please just
12 send me a copy as an attachment in Microsoft, you
13 know, Word.

14 MR. BARNES: Yes, sir.

15 THE COURT: And, you know, "Here's my RO,"
16 that's all you've got to say, attach your RO and
17 send it to that, and I'll get it.

18 The written one will go to the clerk and they
19 will go through the documentation, docketing
20 process, and then eventually I will get the hard
21 copy. But at the same time, I can get the
22 electronic copy, see what both of you think is
23 important and, if necessary, excise any portions of
24 it that I deem worthy of putting into my recommended
25 order, and so it makes all of our jobs move more

1 quickly and easily.

2 MR. CHISENHALL: Your Honor, did you say that
3 was in Microsoft Word?

4 THE COURT: Yes, we use Microsoft Word here.
5 So you should send it in Word if at all possible,
6 the attachment.

7 MR. CHISENHALL: Yes, sir.

8 THE COURT: Obviously the e-mail will be
9 whatever the hyperlink -- whatever the e-mail
10 provides.

11 And you're certainly more knowledgeable, Mr.
12 Barnes, on all of that, based on what I heard today,
13 than I would ever be to try to tell you folks.

14 MR. BARNES: I don't know the address.

15 THE COURT: But -- well, you have the address
16 on the card.

17 Now, looking at ten days for the submission,
18 today is the 11th, so one, two, three, four, five,
19 six, seven, eight, nine, ten is Friday the 21st. Is
20 that going to be adequate time, in view of the
21 impending holidays and so forth?

22 MR. BARNES: I'd like to extend that past the
23 holiday. If I say the 23rd, 24th, that doesn't make
24 any sense, either. So what I would say, the Monday
25 after Christmas but before New Year's. What day is

1 that? I don't have a calendar.

2 THE COURT: Well, I've always heard that that
3 was the 26th of December, the day after Christmas.

4 MR. BARNES: Not day, the Monday after.

5 THE COURT: Oh, the Monday after I've always
6 heard was the -- well, it's not always, that's true,
7 the 24th, Christmas Eve.

8 MR. CHISENHALL: The 31st.

9 MR. BARNES: Okay, so seven days from the 24th,
10 is that the 31st?

11 MR. CHISENHALL: Yes.

12 MR. BARNES: Okay, well, your e-mail will be
13 working. Would the 31st as a deadline suffice?

14 MR. CHISENHALL: I have no objection.

15 THE COURT: Okay, the 31st is the date for your
16 proposed recommended orders, then.

17 MR. BARNES: Okay. Now, were we going to go
18 back and discuss these?

19 MR. CHISENHALL: That's what I gave them for.
20 I apologize if your --

21 MR. BARNES: Yes, you know, I --

22 MR. CHISENHALL: You do have the faxed copy,
23 though.

24 MR. BARNES: Okay. No, I have this, and you've
25 reduced your finding of fact to number 1, crimes in

1 application. You -- is there a question on crimes
2 recent, could we discuss that?

3 MR. CHISENHALL: That was what the Commission
4 was finding. I think the appropriate place to
5 dispute that would be in the PROs.

6 THE COURT: You're talking about the legal
7 argument as to the recency, for lack of a better
8 word?

9 MR. BARNES: Yes, I thought the purpose was to
10 hear that today.

11 THE COURT: How recent is recent?

12 MR. BARNES: Exactly.

13 THE COURT: What's really the meaning of
14 *recent*, the definition of *recent*. That's something
15 that you will argue in your proposed recommended
16 orders to me. You would do that, if you had
17 counsel, you would do that based on holdings of
18 courts in this state and when is a conviction no
19 longer considered recent. It's a good inquiry to
20 make the next time you're in front of a LexisNexis
21 or -- which, you know, or some of the rest of these
22 legal programs that you can get into.

23 MR. BARNES: Okay.

24 THE COURT: That might give you a cite to
25 Florida cases.

1 MR. BARNES: Okay. I actually thought I was
2 coming here today to dispute their findings of fact,
3 because --

4 THE COURT: Absolutely, that's exactly what
5 you're here about.

6 MR. BARNES: Okay. And without that, the
7 conclusions are moot, according to their document.
8 Because of these findings of fact, we come to these
9 conclusions, is how they're written.

10 THE COURT: Well, exactly. But each agency
11 does their thing a little different, differently.

12 This is the -- I haven't heard one of these in
13 quite a while, but I've been doing this job for a
14 long, long time. And normally a complaint or denial
15 of an application in the past has set forth the
16 bases for denial with greater simplicity than this,
17 attaching a key and so forth.

18 I would assume that this is occasioned by the
19 fact that a large number of people are seeking to be
20 licensed in Florida and this makes the process go
21 faster, but it certainly, thanks to counsel for the
22 Commission in simplifying and explaining this to us,
23 I could argue with you, as any two lawyers in any
24 room you will get three opinions, that some of what
25 are called conclusions are actually findings of fact

1 and, you know, and vice-versa.

2 So all of that I leave to you and what you
3 choose to put in your proposed recommended orders to
4 me. You may go to that -- on that card I gave you,
5 you will also find a site for the Division of
6 Administrative Hearings, and you can go there and
7 you can pull up recommended orders issued here by
8 other judges. There may even be some in there by me
9 from some time past.

10 MR. CHISENHALL: I think the last time you
11 heard a case like this was 1989 or 1988.

12 THE COURT: You've already done it, haven't
13 you?

14 MR. CHISENHALL: Yes, I've done some research
15 about this. I'm pinch-hitting for Tom Barnhart. He
16 normally handles these cases, but he has a
17 Commission meeting today, so he asked me to pinch-
18 hit for him.

19 THE COURT: Let's be off the record, and we can
20 continue this discussion, okay?

21 Thank you all for your consideration in this
22 hearing today. We are concluded.

23 (Whereupon, the hearing was concluded at 11:49
24 a.m.)

25

