

FILED
Department of Business and Professional Regulation
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Date **3/5/2009**
File # **2009-01556**

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

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

Petitioner,

vs.

MARIAN LEMON COAXUM,

Respondent.

**CASE NO. : 08-3688PL
DBPR CASE NO.: 2006024322**

FILED
2009 MAR -6 A 10:51
DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER

THIS CAUSE came before the **FLORIDA REAL ESTATE COMMISSION** (“Commission”) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on January 20, 2009, in Orlando, Orange County, Florida, for the purpose of considering the Administrative Law Judge’s Recommended Order in the above-styled cause. A copy of said Recommended Order is attached hereto and incorporated herein as Exhibit “A.”

The Petitioner was represented by Jason Holtz, Esquire, Senior Attorney for the Division of Real Estate, Orlando, Orange County, Florida. The Respondent was present but was not represented by counsel. The Commission was represented by Tom Barnhart of Tallahassee, Leon County, Florida. After a review of the complete record in this matter, including consideration of the Administrative Law Judge’s Recommended Order, the parties’ exceptions to the Recommended Order, and the arguments of each party, the Commission makes 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 Board 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. Except for the Respondent's Exceptions to the Recommended Order, the Administrative Law Judge's conclusions of law as set forth in Exhibit "A" are approved, adopted and incorporated herein by reference.
5. As modified by Respondent's Exceptions to the Recommended Order, 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. Petitioner's Exceptions One and Two were considered and DENIED. There is competent substantial evidence to support the Administrative Law Judge's conclusions of law and recommendation, as modified by the Respondent's Exceptions to the Recommended Order.

7. Respondent's Exceptions 1, 2 and 3 are GRANTED.

DISPOSITION

8. Upon a complete review of the record, the Commission rejects the Administrative

Law Judge's recommendations.


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

The charges in Case No. 2006024322 against Respondent are **DISMISSED** and Respondent does not owe any penalty. Although the Administrative Law Judge recommended a penalty of \$1,000.00, it is not clear what provision of the law, if any, was violated.

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

DONE and **ORDERED** this 25 day of February, 2009.

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 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 Timothy P. Atkinson, Esquire, and Gavin D. Burgess, Esquire, Oertel, Fernandez, Cole & Bryant, P.A., P.O. Box 1110, Tallahassee, Florida 32302-1110, R. Bruce McKibben, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; Jason Holtz, Esquire, 400 W. Robinson Street, Suite 801, North Tower, Orlando, Florida 32801-1757; and to Tom Barnhart, Senior Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on this 5th day of March, 2009.

Tom Barnhart

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