

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

FLORIDA DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,

Petitioner,

vs.

FDBPR Case N° 96-84717
97-81861

ARMAND W. GROSSMAN
T/A ARMAND GROSSMAN PROPERTIES,
Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

State of Florida, Department of Business and Professional Regulation, Division of Real Estate (hereinafter "Petitioner") files this Administrative Complaint against Armand W. Grossman t/a Armand Grossman Properties (hereinafter "Respondent") and alleges:

ESSENTIAL ALLEGATIONS OF MATERIAL FACT

1. Petitioner is a state government licensing and regulatory agency charged with the responsibility and duty to prosecute Administrative Complaints pursuant to the laws of the State of Florida, in particular § 20.165, *Fla. Stat.*, Chapters 120, 455 and 475, *Fla. Stat.*, and the rules promulgated pursuant thereto.
2. Respondent is and was at all times material herein a licensed Florida real estate broker, issued license number 0034501 in accordance with Chapter 475, *Fla. Stat.*
3. The last license issued was as a broker at 16100 Kingsmoor Way, Miami Lakes, Florida 33014.

4. At all times material herein, Respondent was licensed and operating as qualifying broker for Armand Grossman Properties, Inc.

5. At all times material herein, Armand Grossman Properties, Inc. was a corporation registered as a Florida real estate broker having been issued license CQ 1006725. The corporate registration was not renewed as of September 30, 1998.

6. At all times material herein, Respondent was the sole officer, director, and registered agent of American Heritage Financial Institute, Inc. and Armand Grossman Seminars, Inc., according to filings with the Florida Secretary of State.

7. At all times material herein, Respondent owned or controlled American Heritage Financial Institute, Inc. and Armand Grossman Seminars, Inc., according to filings with the Florida Secretary of State.

8. At all times material herein, American Heritage Financial Institute, Inc. registered its mailing and principal office address as 6073 NW 167 Street, Suite C-11, Miami Lakes, Florida, 33015.

9. At all times material herein, Armand Grossman Seminars, Inc. registered its mailing address as 15505 Bull Run Road, Suite 213, Miami Lakes, Florida, 33014 and its principal offices at 7850 NW 146 St., #428, Miami Lakes, Florida, 33014, until its administrative dissolution in October 16, 1998.

10. At all times material herein, American Heritage Financial Institute, Inc. and

Armand Grossman Seminars, Inc. (hereinafter collectively referred to as Seminars) were not holders of valid, current registrations with the DBPR.

11. At all times material hereto, Respondent traveled throughout the country presenting lectures and soliciting buyers for membership in Seminars' Power Pathway Program (Program) before members of the general public.

12. At Seminars' lectures, Respondent represented to the members of the general public in attendance, that to become a member of the Program, a person must pay a \$1,000 "retainer" to Seminars and fill out an application.

13. At Seminars' lectures, Respondent represented to the members of the general public that, from the application, Seminars would determine whether the applicant qualified for the Program and that only those who qualified would be selected.

14. To induce the members of the general public in attendance at Seminars' presentations to purchase membership, Respondent represented that only persons with certain qualifications would be selected for participation in Seminars' program.

15. Following Seminars' lectures, Respondent and/or Seminars' employees would contact attendees who did not purchase at the presentation and offer to them membership at a price less than \$1,000. A copy of the solicitation letter is attached hereto, incorporated herein, and made a part hereof by reference as Administrative Complaint Exhibit 1.

16. Predicated on complaints from a member of Seminars and from a former

employee/counselor, the DBPR commenced an investigation.

17. On or about April 28, 1997, two DBPR investigators interviewed Respondent in the presence of his attorney.

18. In response to the investigators' question, Respondent stated that:

a. Any interested individual could attend his seminars and purchase the Power Pathway Program.

b. After purchasing the program for \$1,000.00, the person would be considered a member.

19. Chapter 475.01(a), *Fla. Stat.*, states, in pertinent part:

'Broker' means a person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases, or who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights, or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights, or who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who

receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor; and all persons who advertise rental property information or lists. A broker renders a professional service and is a professional within the meaning of s. 95.11(4)(a). Where the term 'appraise' or 'appraising' appears in the definition of the term 'broker,' it specifically excludes those appraisal services which must be performed only by a state-licensed or state-certified appraiser, and those appraisal services which may be performed by a registered appraiser as defined in part II. The term 'broker' also includes any person who is a general partner, officer, or director of a partnership or corporation which acts as a broker.

20. Chapter 475.01(k) states: "'Salesperson' means 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*" (emphasis added).

21. Chapter 475.01(3), *Fla. Stat.* (1998) states, in pertinent part: "'Operate' . . . mean[s] the commission of one or more acts described in this chapter as constituting or defining a broker, broker-salesperson, or salesperson."

22. Chapter 475.42(1)(a), *Fla. Stat.* (1998) states: "No person shall operate as a real estate broker or salesperson in Florida without being the holder of a valid and current active license therefor."

23. At Seminars' lectures, Respondent represented to the members of the general public that once a member, the person would receive a program manual and assignment to a "counselor." Copy of the manual is attached hereto, incorporated herein, and made a part hereof

by reference as Administrative Complaint Exhibit 2.

24. The manual advised members to:

- a. find real property for sale;
- b. compile a presentation package, regarding the property, including but not limited to ownership information, appraisals, mortgage estoppel, market analysis, etc. (forms to facilitate the guidance for obtaining this information were provided in the manual);
- c. submit the package to the counselor that Seminars assigned to the member; and
- d. that the counselor would find an investor/purchaser.

25. At Seminars' lectures and via the program manual, Respondent represented to the members that once the counselors found an investor willing to purchase the properties in the package, member should be ready to:

- a. contract to purchase the package or enter into a long-term lease option for a sale price lower than what Respondent's investors would pay; and
- b. assign the member's rights in the contract to Respondent's investor, who would then purchase the package.

26. At Seminars' lectures and via the program manual, Respondent represented to the members that it would handle the closing of the transaction(s) and share the profit(s), measured by the difference between what the member contracted for and the actual amount the investor

paid for the package, with the member.

27. In response to the investigators' question at the interview on April 28, 1997, Respondent stated that counselors served the purpose of "connecting" members with investors.

28. In response to the investigators' question at the interview on April 28, 1997, Respondent further stated that Seminars' counselors were not real estate licensees in the State of Florida.

29. In response to the investigators' question at the interview on April 28, 1997, Respondent stated that (a) members were required to find property owners who were willing to sell and (b) to submit the property owner's information to the counselor, who would present it to prospective buyers.

30. To induce the members of the general public in attendance at Seminars' presentations to purchase membership, Respondent provided attendees with instruction on how to draft real estate contracts, using as a sample a certain contract showing a sales price of \$13,100,000.00.

31. To induce the members of the general public in attendance at Seminars' presentations to purchase membership, Respondent represented the \$13,100,000 as an actual contract transacted by one of Seminars' most successful members. Copy of the contract form is attached hereto, incorporated herein, and made a part hereof by reference as Administrative Complaint Exhibit 3.

32. In response to the investigators' question at the April 28, 1997 interview, Respondent stated that, as of April 28, 1997, more than 4000 persons had become members in Seminars' program.

33. In response to the investigators' question at the April 28, 1997 interview, Respondent stated that, as of April 28, *not one* of the over 4,000 members had closed on a transaction through Seminars.

COUNT I

Based on the foregoing, Respondent is guilty of fraud, misrepresentation, concealment, false pretenses, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any business transaction in violation of § 475.25(1)(b), *Fla. Stat.*, and therefore, § 475.42(1)(e), *Fla. Stat.*

COUNT II

Based on the foregoing, Respondent operated as a broker under a trade name without causing the same to be noted in the records of the Commission and placed on the license and operated as a member of a partnership, corporation, or as an officer or manager thereof, without the partnership or corporation being holders of valid, current registrations in violation of § 475.42(1)(k) and, therefore, § 475.25(1)(a) and (e).

COUNT III

Based on the foregoing, Respondent is guilty of having employed unlicensed persons to operate as real estate salespersons in violation § 475.42(1)(c) and, therefore, § 475.25(1)(a), (e), and § 455.227(1)(j).

COUNT IV

Based on the foregoing, Respondent is guilty of having “advertised . . . services in a manner which [was] fraudulent, false, deceptive, or misleading in form or content” in violation of § 475.25(1)(c).

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

Fla. Stat. and Rule 61J2-24.001, *Fla. Admin. Code*. The penalties which may be imposed for violation(s) of Chapter 455, *Fla. Stat.*, depending upon the severity of the offense(s), include: revocation of the license, registration, or permit; suspension of the license, registration, or permit for a period not to exceed ten (10) years; imposition of an administrative fine of up to \$5,000 for each count or offense; imposition of investigative costs; issuance of a reprimand; imposition of probation subject to terms including, but not limited to, requiring the licensee, registrant, or permittee to complete and pass additional real estate education courses; publication; restriction of practice; injunctive or mandamus relief; imposition of a cease and desist order; or any combination of the foregoing which may apply. See § 455.227, *Fla. Stat.* and Rule 61J2-24.001, *Fla. Admin. Code*.

SIGNED this 19th day of August, 1999.

FILED
Department of Professional Regulation
Division of Real Estate

Kay Henry
Clerk
8/19/99
Date

Herbert S. Fecker, Jr.
Department of Business and
Professional Regulation
By: Herbert S. Fecker, Jr.
Director, Division of Real Estate