



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
TENNESSEE REAL ESTATE COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
615-741-2273
<http://www.tn.gov/commerce/section/real-estate-commission>

MINUTES

The Tennessee Real Estate Commission held a meeting August 10, 2016 at 9:00 a.m. in Nashville, Tennessee.

The Meeting was called to order by Chairman Griess.

Griess, Board Chairman welcomed everyone to the Board meeting.

Mr. Young, Executive Director called roll. The following Commission Members were present: Chairman John Griess, Commissioner Diane Hills, Commissioner Franks, Commissioner Austin McMullen, Commissioner Fontaine Taylor, Commissioner Gary Blume, Commissioner, Rick Douglass, Commissioner Bobby Wood and Commissioner Johnny Horne. Others present: Executive Director Malcolm Young, Assistant General Counsel Mallorie Kerby, and Commission Staff Brooke Wagner.

AGENDA-

Motion made by Commissioner Franks and seconded by Commissioner McMullen to approve the agenda. Motion carried unanimously.

MINUTES-

Minutes for the July 6, 2016 board meeting were submitted for changes and/or approval.

Motion made by Commissioner McMullen and seconded by Commissioner Hills to approve the July 6, 2016 minutes. Motion carried, Commissioner Bobby Wood abstained.

Welcomed New Commissioner member Rick Douglass from Memphis, TN.

ELECTION OF OFFICERS-

Motion to elect as Chairman, Commissioner John Griess, Motion – Commissioner Blum, Second Commissioner Franks. Vote Unanimous

Motion to elect as Vice Chairman, Commissioner Austin McMullen, Motion – Commissioner Franks, Seconded Commissioner Blume. Vote Unanimous

INFORMAL APPEARANCES-

Mr. Kronk and Mr. Lipman in accordance to rule 1260-02-.01(2) appeared before the Tennessee Real Estate Commission to request a waiver of being located over 50 miles from the Principal Broker's Office. Commissioner Wood made the motion to recommend, Seconded by Commissioner McMullen. Vote Unanimous

Recommendation of Commissioner Franks , Seconded by Johnny Horne for Legal Counsel to draft alternatives for Tennessee Real Estate Commissioners to review Principal Brokers being located within a 50 mile radius for Affiliate Brokers to have access to Principal Brokers in which they are responsible for. 6 yes 2 – No, Blume Abstained.

Application for Affiliate Broker licensure; Martin Mora

Motion made by Commissioner Franks and seconded by Commissioner Wood to approve ability to apply for license. Motion carried unanimously

COMMISSION DISCUSSION:

Agreed Citation is to be implemented recommendation by McMullen and seconded by Franks:

First Offense: \$250.00 per violation

Second Offense: \$750.00 per violation

Third Offense: Refer to Legal

Advertising Violations: all advertising citations for affiliate brokers shall also be assessed against the Principal Broker with whom the affiliate broker was affiliated at

the time the violation took place. The relevant citation for the Principal Broker is 1260-02-.12(3)(b) below.

Tenn. Comp R. & Reg. 1260-02-.03(1) Signs. Each licensed real estate firm shall conspicuously display on the outside of the firm's place of business a sign which contains the name of the real estate firm as registered with the Commission.

Tenn. Comp R. & Reg. 1260-02-.12(3)(b) All advertising shall be under the direct supervision of the principal broker and shall list the firm name and the firm telephone number as listed on file with the Commission. (see (2) of this rule for definition of "firm name").

1. Any licensee advertising that includes only the franchise name without including the firm name;

2. The firm's telephone number shall be the same size or larger than the telephone number of any individual licensee or group of licensees.

Tenn. Comp R. & Reg. 1260-02-.12(3) (c) Any advertising which refers to an individual licensee must list that individual licensee's name as licensed with the Commission.

Tenn. Comp R. & Reg. 1260-02-.12(4) Advertising for Franchise or Cooperative Advertising Groups

(a) Any licensee using a franchise trade name or advertising as a member of a cooperative group shall clearly and unmistakably indicate in the advertisement his name, firm name and firm telephone number (all as registered with the Tennessee Real Estate Commission) adjacent to any specific properties advertised for sale or lease in any media.

(b) Any licensee using a franchise trade name or advertising as a member of a cooperative group, when advertising other than specific properties for sale or lease, shall cause the following legend to appear in the advertisement in a manner Reasonably calculated to attract the attention of the public:”Each [Franchise Trade Name or Cooperative Group] Office is Independently Owned and Operated.”

(c) Any licensee using a franchise trade name on business cards, contracts, or other documents relating to real estate transaction shall clearly and unmistakably indicate thereon:

1. His name, firm name, and firm telephone number (all as registered with the Commission); and
2. The fact that his office is independently owned and operated.

Tenn. Comp R. & Reg. 1260-02-.12(5) Internet Advertising: in addition to all other advertising guidelines within this rule, the following requirements shall also apply with respect to internet advertising by licensees, including, but not limited to, social media:

(a) The firm name and the firm telephone number listed on file with the Commission must

Conspicuously appear on each page of the website.

(b) Each page of a website which displays listings from an outside database of available Properties must include a statement that some or all of the listings may not belong to The firm whose website is being visited.

(c) Listing information must be kept current and accurate. This requirement shall apply to “First Generation” advertising as it is placed by the licensee and does not refer to such

advertising that may be syndicated or aggregated advertising of the original by third parties outside of the licensee's control and ability to monitor.

Tenn. Comp R. & Reg. 1260-02-.41(1) Licensees who hold themselves out as a team, group, or similar entity within a firm must be affiliated with the same licensed firm and shall not establish a physical location for said team, group, or similar entity within a firm that is separate from the physical location of record of the firm with which they are affiliated.

TENN. CODE ANN. § 62-13-309(b)(1) Each licensed broker shall maintain a sign on the outside of the broker's office of the size and content that local ordinances and the commission prescribe, which shall clearly state that the broker is engaged in the real estate business.

TENN. CODE ANN. § 62-13-310(b) Licensees may not post signs on any property advertising themselves as real estate agents unless the firm's name appears on the signs in letters the same size or larger than those spelling out the name of the licensee.

In accordance to rule 62-13-206 (c), (/for commission to travel to east west locations) motion to approved west location in Collierville, Tn. Motion by Commissioner Blume, Seconded by Franks. Vote Unanimous

Recommendation to adopt the informal applicant process as submitted by legal counsel – Motion Commissioner Franks, Seconded by Woods. Motion carried unanimously.

AMENDMENT to 1260-01-01

(6) If an applicant has ever been convicted of or pled nolo contendere or guilty to any felony or a misdemeanor involving the theft of services, money or property, or had disciplinary action taken on a license the applicant currently holds or has held at any time in the past by any local, state or federal agency, the applicant shall:

- (a) Complete and submit a form prescribed by the Commission containing information relevant to the conviction, plea or disciplinary action.
- (b) Submit certified copies of the court disposition or other document acceptable to the Commission for each conviction, plea of guilty or nolo contendere or a copy of the order or other document which shows the disciplinary action taken by the local, state or federal agency and the factual and legal basis for the action, whichever is applicable.

1. If the background check produced pursuant to T.C.A. § 62-13-303(1) does not reveal the disposition of any arrest or charge related to a felony or a misdemeanor involving theft of services, money or property and the charge has been dismissed, nolle prosequi or otherwise disposed of without conviction or a plea of guilty or nolo contendere, the applicant shall submit certified copies of the court disposition or other document acceptable to the Commission for each such arrest or charge.
 2. If the court has no record of the arrest, charge, or conviction due to age of the record or any other reason, the applicant shall submit a letter from the court clerk stating the absence of the record(s).
- (c) Appear before the Commission for the purpose of determining if the conviction, plea or disciplinary action constitutes grounds for denial of a license and, if so, whether or not the applicant may move forward with the licensing process.

Authority: T.C.A. §§ 62-13-112, 62-13-203, 62-13-301, 62-13-303, 62-13-312, and 40-29-207

Adoption of the contract between ARELLO and the ATR Agreement (Timeshares) and TREC – Motion Commissioner Wood, Second Commissioner Franks. Vote Unanimous.

Education instructor training verification of confirming access and/or attendance at training to be finalized at August meeting.

EDUCATION REPORT:

Motion made by Commissioner McMullen to approve courses A-1-A-19 motion seconded by Commissioner Horne carried unanimously. Motion carried unanimously.

Motion made by Commissioner Wood to approve instructors Wilson, David & Seal; seconded by Commissioner Franks. Motion carried unanimously.

EXECUTIVE DIRECTORS REPORT-

Review of Financial and Statistical Reports

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LEGAL REPORT- Staff Attorney

1. 2016006921

Opened: 2/10/16

First Licensed: 6/13/14

Expiration: 6/12/18

Type of License: Affiliate Broker

History: No Prior Disciplinary Action

Recommendation: Dismiss. The Commission will need to determine whether or not this Respondent and principal broker need to come before the Commission in order to be considered for a 50 mile rule waiver.

Decision: The Commission voted to request both Principal Broker and Respondent to appear at the next meeting to determine whether or not a waiver should be granted. The Commission would like the Complaints re-presented at the August meeting following the waiver decision. Respondent is scheduled to appear at the August 10th meeting.

Decision: 50 mile rule waiver granted. The Commission voted to accept the original recommendation of legal counsel and dismiss the complaint. Motion made by Commissioner Franks seconded by Commissioner Hills. Motion passes unanimously. Commissioner Blume abstained from the vote.

2. 2016010811

Opened: 2/10/16

First Licensed: 5/22/72

Expiration: 7/13/18

Type of License: Principal Broker

History: No Prior Disciplinary Action

Recommendation: \$250 for violation of Rule 1260-02-.01(2)(50 mile rule). The Commission will need to determine whether or not this Respondent and affiliate broker need to come before the Commission in order to be considered for a 50 mile rule waiver.

Decision: The Commission voted to request both Principal Broker and Respondent to appear at the next meeting to determine whether or not a waiver should be granted. The Commission would like the Complaints re-presented at the August meeting following the waiver decision. Respondent is scheduled to appear at the August 10th meeting. 3

Decision: 50 mile rule waiver granted. The Commission voted to accept the original recommendation of legal counsel and issue a \$250 consent order for violation of Rule 1260-02-.01(2). Motion made by Commissioner Taylor seconded by Commissioner Franks. Motion passes unanimously. Commissioner Blume abstained from the vote.

3. 2016003612

Opened: 1/27/16

First Licensed: 3/18/10

Expiration: 3/17/18

Type of License: Affiliate Broker
History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Horne. Motion passes unanimously

4. 2016010861

Opened: 2/28/16
First Licensed: 3/13/12
Expiration: 3/12/18
Type of License: Real Estate Firm
History: No History of Disciplinary Action.

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Blume seconded by Commissioner Taylor. Motion passes unanimously

5. 2016010881

Opened: 2/28/16
First Licensed: 1/31/2003
Expiration: 7/16/17
Type of License: Affiliate Broker
History: No History of Disciplinary Action.

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Taylor. Motion passes unanimously

6. 2016010901

Opened: 2/28/16
First Licensed: 12/17/1986
Expiration: 10/18/16
Type of License: Principal Broker
History: Complaint 201003295 dismissed 2-9-11/ch

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Griess seconded by Commissioner Hills. Motion passes unanimously

7. 2016011131

Opened: 2/28/16
First Licensed: 7/8/03
Expiration: 7/10/18
Type of License: Principal Broker

History: March 2014 \$250 consent order for FTS, 2016014041 under review by legal

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Wood. Motion passes unanimously

8. 2016011151

Opened: 2/29/16

First Licensed: 7/9/86

Expiration: 11/4/16

Type of License: Broker

History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Hills. Motion passes unanimously

9. 2016011171

Opened: 2/29/16

First Licensed: 4/19/93

Expiration: 8/19/16

Type of License: Principal Broker

History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Taylor. Motion passes unanimously

10. 2016012051

Opened: 3/3/16

First Licensed: 10/18/02

Expiration: 3/16/18

Type of License: Affiliate Broker

History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Franks. Motion passes unanimously

11. 2016012071

Opened: 3/3/16

First Licensed: 4/25/95

Expiration: 11/23/16

Type of License: Principal Broker

History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Wood. Motion passes unanimously

12. 2016012121

Opened: 3/4/16
First Licensed: 4/22/08
Expiration: 06/23/17
Type of License: Principal Broker
History: No Prior Disciplinary Action

Recommendation: Consent order for \$1000 for violation of T.C.A. § 62-13-403(1)(failure to exercise reasonable skill and care). Counsel will defer to the Commission as to whether Respondent's phone set-up constitutes a violation of Rule 1260-02-.04 which states "...nor shall any broker conduct the major part of his real estate by or through an answering service; however, reasonable use of a telephone service by a broker is permitted." Counsel also recommends requesting that an audit be done on Respondent's firm and, if any additional violations are found in the course of that audit, a subsequent complaint should be opened.

Decision: Consent order for \$1000 for violation of T.C.A. § 62-13-403(1)(failure to exercise reasonable skill and care). Commission requests that an audit be done on Respondent's firm and, if any additional violations are found in the course of that audit, a subsequent complaint should be opened. Motion made by Commissioner Hills seconded by Commissioner Wood. Motion passes unanimously.

13. 2016012211

Opened: 3/4/16
First Licensed: 3/28/02
Expiration: 04/07/17
Type of License: Principal Broker
History: \$1000 consent order for failure to disburse earnest money in 2014

Recommendation: Dismiss

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Taylor. Motion passes unanimously.

14. 2016012212

Opened: 3/4/16
First Licensed: 8/18/15
Expiration: 8/17/17
Type of License: Affiliate Broker
History: No prior disciplinary action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Franks. Motion passes unanimously.

15. 2016012281

Opened: 3/4/16
First Licensed: 11/22/99

Expiration: 8/3/16
Type of License: Principal Broker
History: No prior disciplinary action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Wood. Motion passes unanimously.

16. 2016012691

Opened: 3/4/16
First Licensed: 12/20/05
Expiration: 12/19/17
Type of License: Affiliate Broker
History: No prior disciplinary action

17. 2016012692

Opened: 3/4/16
First Licensed: 3/20/12
Expiration: 3/19/18
Type of License: Affiliate Broker
History: No prior disciplinary action

Recommendation: As to Respondent 1, dismiss. As for Respondent 2, \$500 consent order for violation of T.C.A. 62-13-312(b)(20)(improper, fraudulent, or dishonest dealing).

Decision: As to Respondent 1, dismiss. As for Respondent 2, \$1000 consent order for violation of T.C.A. 62-13-312(b)(20)(improper, fraudulent, or dishonest dealing). Motion made by Commissioner Griess seconded by Commissioner Franks. Motion passes unanimously. Commissioner Horne abstained from the vote.

18. 2016012711

Opened: 3/4/16
First Licensed: 4/17/86
Expiration: 3/18/17
Type of License: Principal Broker
History: No prior disciplinary action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Horne. Motion passes with 8-1 vote, with Commissioner Taylor opposing.

19. 2016012731

Opened: 3/4/16
First Licensed: 10/18/13
Expiration: 10/17/17
Type of License: Principal Broker
History: June 2014 consent order \$1000 for failure to disburse earnest money

Recommendation: Consent order for \$500 for violation of T.C.A. 62-13-403(7)(A)(no acting on behalf of a business entity in which the licensee has a personal interest without prior disclosure and timely written consent of all parties to the transaction) and \$500 for violation of Rule 1260-02-.09(all terms and conditions of real estate transaction must be included in the contract to purchase) plus four (4) hours of continuing education in contracts to be complete within 180 days above the minimum required for license renewal.

Decision: The Commission voted to accept the recommendation of legal counsel with the addition of an option to attend an entire regularly scheduled meeting of the Commission within 180 days of execution of the consent order instead of the four (4) hours of continuing education. Motion made by Commissioner Blume seconded by Commissioner Taylor. Motion passes 7-2 vote, with Commissioner Blume and Commissioner Wood opposing.

20. 2016012831

Opened: 3/4/16
First Licensed: 8/25/08
Expiration: 8/24/16
Type of License: Affiliate Broker
History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Taylor. Motion passes unanimously.

21. 2016012851

Opened: 3/4/16
First Licensed: 10/27/99
Expiration: 11/20/17
Type of License: Principal Broker
History: August 2015 \$12,000 consent order for failure to supervise (advertising)

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Taylor. Motion passes unanimously.

22. 2016013041

Opened: 3/8/16
First Licensed: 7/14/05
Expiration: 11/4/17
Type of License: Principal Broker
History: No Prior Disciplinary Action

Recommendation: Dismiss

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Hills. Motion passes unanimously.

23. 2016014041

Opened: 3/10/16
First Licensed: 7/8/03
Expiration: 7/10/18
Type of License: Principal Broker
History: March 2014 \$250 consent order for FTS, 2016011131 under review by legal

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Blume seconded by Commissioner Franks. Motion passes unanimously.

24. 2016016321

Opened: 3/10/16
First Licensed: 7/12/04
Expiration: 6/13/16
Type of License: Affiliate Broker (expired 6/13/16)
History: No Prior Disciplinary Action

Decision: The Commission voted to dismiss the complaint. Motion made by Commissioner Taylor seconded by Commissioner Horne. Motion passes unanimously. Commissioner Hills abstained from the vote.

25. 2016016391

Opened: 3/18/16
First Licensed: 2/6/08
Expiration: 3/6/18
Type of License: Principal Broker
History: No Prior Disciplinary Action

26. 2016016392

Opened: 3/18/16
First Licensed: 4/26/05
Expiration: 11/7/16
Type of License: Affiliate Broker
History: No Prior Disciplinary Action

27. 2016016393

Opened: 3/18/16
First Licensed: 9/4/13
Expiration: 9/3/17
Type of License: Affiliate Broker
History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Wood. Motion passes unanimously.

28. 2016010921

Opened: 3/18/16
History: No Prior Disciplinary Action

Recommendation: Close and refer to Attorney General and District Attorney General.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Taylor. Motion passes unanimously.

29. 2016012141

Opened: 3/4/16

First Licensed: 1/31/90

Expiration: 6/12/17

Type of License: Real Estate Firm

History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Franks. Motion passes unanimously.

30. 2016012161

Opened: 3/4/16

First Licensed: 1/31/90

Expiration: 6/12/17

Type of License: Real Estate Firm

History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Hills. Motion passes unanimously.

31. 201601591

Opened: 3/16/16

First Licensed: 1/21/05

Expiration: 5/28/17

Type of License: Real Estate Firm

History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Wood seconded by Commissioner Franks. Motion passes unanimously.

Chairman Griess adjourned the meeting at 4:32 pm.