



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

## MINUTES

The Tennessee Real Estate Commission held a meeting May 5, 2016 at 9:00 a.m. in Jackson, 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, Vice-Chairman Janet DiChiara, Commissioner Diane Hills, Commissioner Franks, Commissioner Bobby Wood, Commissioner Fontaine Taylor, Commissioner Gary Blume, and Commissioner Johnny Horne; absent from the meeting was Commissioner Austin McMullen. Others present: Executive Director Malcolm Young, Assistant General Counsel Mallorie Kerby, Paralegal Jennaca Harris and Commission Staff Brooke Wagner

**AGENDA-** Motion made by Commissioner Franks and seconded by Commissioner DiChiara to approve the agenda. Motion carried unanimously.

### MINUTES-

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

Motion made by Commissioner DiChiara and seconded by Commissioner Hills to approve the March 6, 2016 minutes. Motion carried unanimously.

### SPECIAL APPEARANCES-

Brian McCormack – Assistant Commissioner via Skype

### PUBLIC APPEARANCES-

Ed Apple- Addressed Commission regarding expired license current protocol.

Randy Verside- Addressed Commission regarding expired licensee's being required to attend a TREC Commission meeting.

Glen Chambers- Addressed Commission regarding time it will take to be reinstated after meeting and fees are paid. The Executive Director announced that an online platform will be made available on June 22 to automate practices.

## **COMMISSION DISCUSSION-**

### **Legislative Recap for 2016-**

Education requirements to be completed prior to a license taken out of retirement, by changing this requirement, the license status of "Inactive" will be eliminated.

### **Potential Legislative Proposals for 2017-**

- LLC ownership- Clarify LLC relationships as a firm
- LLC within a corporation exemption
- Practice of real estate without a license
- Grandfathering of Education Requirements

### **CORE Education Topics for 2017-2018**

Motion made by Commissioner DiChiara and seconded by Commissioner Taylor approve proposed Education Topics for 2017-2018. Motion carried unanimously.

### **Expired Licensee Rule Presentation**

Motion made by Commissioner Hills and seconded by Commissioner Franks to instruct legal counsel to begin the rule making process to amend rule 1260-01-.21 (3. Other Condition: Attend one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of the date of executing the Reinstatement Order.) to no longer mandate attendance at a Commission Meeting for reinstatement of licenses. Motion carried unanimously.

### **December Hearing Dates**

Motion made by Commissioner Franks and seconded by Commissioner DiChiara to approve the dates December 12<sup>th</sup> and 13<sup>th</sup> to be added to the Commission Meeting Schedule. Motion carried unanimously.

### **June ARELLO Conference**

Motion made by Commissioner Taylor and seconded by Commissioner Hills to approve Commission DiChiara and Commissioner Franks to attend the June, District 2 ARELLO Meeting in Oklahoma City. Motion carried unanimously.

### **EDUCATION REPORT-**

Motion made by Commissioner DiChiara to approve courses M1-M17 and seconded by Commissioner Wood. Motion carried unanimously.

Motion made by Commissioner Hills to approve instructors M1-M17 and seconded by Commissioner Wood. Motion carried unanimously.

The Commissioners have asked that the Education Director provide instructor backgrounds prior to the instructor being approved.

### **EXECUTIVE DIRECTORS REPORT-**

The Commissioners have elected to request approval to send Commissioner Taylor, Commissioner Horne, Commissioner DiChiara, Commissioner Franks, Commissioner Wood, Executive Director Malcolm Young and Legal Counsel Mallorie Kerby to the ARELLO Conference in Vancouver, Canada.

### **Review of Financial and Statistical Reports**

#### **Errors and Omissions RFP**

- RFP was approved.

Motion made by Commissioner Taylor hold a hearing June 1<sup>st</sup> to suspend the license due to felony conviction at the request of the licensee seconded by Commissioner Hills. Motion carried unanimously. Commissioner Griess recused himself.

### **LEGAL REPORT- Staff Attorney**

#### **1. 20150219231**

**Opened: 12/29/15**

**First Licensed: 7/14/14**

**Expiration: 7/13/16**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

**New Recommendation: Dismiss.**

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks and seconded by Commissioner Wood. Motion carried unanimously.

**2. 2015014631**

**Opened: 6/17/15**

**First License Obtained: 11/7/07**

**License Expiration: 6/27/16**

**E&O Expiration: 1/1/17**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

*Previous Recommendation: Consent Order for Litigation Monitoring.*

*PREVIOUS DECISION: The Commission voted to accept the recommendation of legal counsel.*

**NEW Recommendation:** Discuss.

**NEW DECISION:** The Commission voted to dismiss this matter. The motion passed on a 7-1 vote, Commissioner DiChiara opposed.

**3. 20150219271**

**Opened: 12/29/15**

**First Licensed: 3/2/00**

**Expiration: 11/22/17**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

*Previous Recommendation: Consent Order in the amount of \$3,000 in violation of T.C.A. § 62-13-312(b)(14), (20) (improper, fraudulent or dishonest dealing), and Rule 1260-02-.02(3)(when a licensee terminates his affiliation with a firm, he shall neither take nor use any property listing secured through the firm, unless specifically authorized by the principal broker)(effective June 14, 2010) for the initial property and additional properties 3 and 4.*

*Previous DECISION: Consent Order in the amount of \$6,000 in violation of T.C.A. § 62-13-312(b)(14), (20) (improper, fraudulent or dishonest dealing), and Rule 1260-02-.02(3)(when a licensee terminates his affiliation with a firm, he shall neither take nor use any property listing secured through the firm, unless specifically authorized by the principal broker)(effective June 14, 2010) for the initial property and additional properties 3 and 4, plus either attendance at one entire regularly scheduled meeting of the Commission or attend and successfully complete a total of eight (8) hours of continuing education with at*

*least four (4) hours in professional responsibility and at least for hours (4) in ethics, all within one hundred eighty (180) days of Respondent's execution of Consent Order. Such continuing education hours*

**New Recommendation:** Consent order for \$500 each for violation of T.C.A. § 62-13-312(b)(20) (improper, fraudulent or dishonest dealing), (20) for the initial property and property 3, and \$1000 for violation of Rule 1260-02-.02(3)(when a licensee terminates his affiliation with a firm, he shall neither take nor use any property listing secured through the firm, unless specifically authorized by the principal broker)(effective June 14, 2010) for additional property 3 only for a total of \$2000.

**NEW DECISION:** The Commission authorized a Consent order for \$500 each for violation of T.C.A. § 62-13-312(b)(20) (improper, fraudulent or dishonest dealing), (20) for the initial property and property 3, and \$1000 for violation of Rule 1260-02-.02(3)(when a licensee terminates his affiliation with a firm, he shall neither take nor use any property listing secured through the firm, unless specifically authorized by the principal broker)(effective June 14, 2010) for additional property 3 only for a total of \$2,000 plus either attendance at one entire regularly scheduled meeting of the Commission or attend and successfully complete a total of eight (8) hours of continuing education with at least four (4) hours in professional responsibility and at least for hours (4) in ethics, all within one hundred eighty (180) days of Respondent's execution of Consent Order. Such continuing 8 education hours should be over and above the minimum continuing education requirements for licensure. Motion made by Commissioner Franks and seconded by Commissioner DiChiara. Motion carried unanimously.

**4. 20150223291**

**Opened: 12/4/15**

**First Licensed: 05/04/62**

**Expiration: 12/24/16**

**Type of License: Broker**

**History: \$500 civil penalty (administrative)**

Recommendation: Dismiss.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks and seconded by Commissioner DiChiara. Motion carried unanimously.

**5. 20150224441**

**Opened: 12/9/15**

**First Licensed: 7/21/11**

**Expiration: 7/20/17**

**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 and seconded by Commissioner DiChiara. Motion carried unanimously.

**6. 20150224471**

**Opened: 12/09/15**

**First Licensed: 12/20/93**

**Expiration: 03/13/17**

**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 and seconded by Commissioner Hills. Motion carried unanimously.

**7. 20150224491**

**Opened: 12/9/15**

**First Licensed: 3/10/08**

**Expiration: 5/23/17**

**Type of License: Principal Broker**

**History: Consent Order for \$50 – Failure to Supervise (2014)**

**Recommendation:** \$1000 consent order for violation of T.C.A § 62-13-404(2) (be loyal to the interest of the client) for requiring the listing agreement be cancelled.

**DECISION:** The Commission voted to dismiss the complaint with no further action. Motion made by Commissioner Taylor and seconded by Commissioner Wood. Motion carried unanimously.

**8. 20150224511**

**Opened: 12/9/15**

**First Licensed: 11/24/86**

**Expiration: 11/22/16**

**Type of License: Principal Broker**

**History: No Prior Disciplinary Action.**

**Recommendation:** \$500 consent order for violation of T.C.A § 62-13-403(1)(reasonable skill and care).

**DECISION:** The Commission voted to dismiss the complaint. Motion passed on a 6-2 vote, Commissioner DiChiara and Commissioner Hills against.

**9. 20150224711**

**Opened: 12/10/15**  
**First Licensed: 4/28/04**  
**Expiration: 2/27/18**  
**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 Wood and seconded by Commissioner DiChiara. Motion carried unanimously.

**10. 20150226261**

**Opened: 12/15/15**  
**First Licensed: 12/28/87**  
**Expiration: 1/28/17**  
**Type of License: Principal Broker**  
**History: 2016005731 Case Received from Staff, 2015005721 Formal Hearing Set (7/7/16)**

**Recommendation:** Dismiss.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner DiChiara and seconded by Commissioner Franks. Motion carried unanimously.

**11. 2016000391**

**Opened: 1/05/16**  
**First Licensed: 5/31/11**  
**Expiration: 5/30/17**  
**Type of License: Affiliate Broker**  
**History: No Prior Disciplinary Action.**

**12. 2016000451**

**Opened: 1/6/16**  
**First Licensed: 3/21/95**  
**Expiration: 12/08/16**  
**Type of License: Principal Broker**  
**History: No Prior Disciplinary Action.**

**Recommendation:** Dismiss as to both Respondents.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks and seconded by Commissioner DiChiara. Motion carried unanimously.

**13. 20150224821**

**Opened: 12/10/15**  
**First Licensed: 10/06/03**  
**Expiration: 12/10/16**  
**Type of License: Principal Broker**

**History: No Prior Disciplinary Action.**

**Recommendation:** *Dismiss.*

**Decision:** *The Commission adopted the recommendation of legal counsel and voted to open a complaint against the principal broker who was released. Motion made by Commissioner Franks and seconded by Commissioner Hills. Motion carried unanimously.*

**NEW Recommendation:** Dismiss.

**NEW DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks and seconded by Commissioner Hills. Motion carried unanimously.

**14. 20150224951**

**Opened: 12/11/15**

**First Licensed: 1/25/07**

**Expiration: 1/24/17**

**Type of License: Affiliate Broker**

**History: No Prior Disciplinary Action.**

**Recommendation:** Dismiss.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion passed on a 6-1 vote, Commissioner Woods opposed.

**15. 20150224971**

**Opened: 2/12/16**

**First Licensed: 12/7/70 19**

**Expiration: 6/4/17**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

**Recommendation:** Dismiss.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner DiChiara and seconded by Commissioner Hills. Motion carried unanimously.

**16. 20150224991**

**Opened: 2/12/16**

**First Licensed: 7/9/02**

**Expiration: 11/23/17**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

**Recommendation:** Discuss. Legal counsel will refrain from making a recommendation and defer to the Commission's industry expertise.

**DECISION:** The Commission voted to dismiss the matter with no further action. Motion made by Commissioner Franks and seconded by Commissioner Wood. Motion carried unanimously.

**17. 20150225011**

**Opened: 2/12/16**

**First Licensed: 12/11/89**

**Expiration: 12/7/16**

**Type of License: Principal Broker**

**History: 2015000851 \$500 Consent Order**

**Recommendation:** Dismiss.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills and seconded by Commissioner Griess. Motion carried unanimously.

Unanimously passed.

**18. 20150225041**

**Opened: 2/16/16**

**First Licensed: 12/19/83**

**Expiration: 1/12/15**

**Type of License: Firm (Expired)**

**History: No history of disciplinary action.**

**Recommendation:** Dismiss.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Wood and seconded by Commissioner Taylor. Motion carried unanimously.

Unanimously passed.

**19. 20150225111**

**Opened: 2/16/16**

**First Licensed: 4/3/87**

**Expiration: 7/19/17**

**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 and seconded by Commissioner Hills. Motion carried unanimously.

**20. 20150225131**  
**Opened: 2/16/16**  
**First Licensed: 10/15/80**  
**Expiration: 1/18/17**  
**Type of License: Principal Broker**  
**History: No history of disciplinary action.**  
**Recommendation: Dismiss.**

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Griess and seconded by Commissioner Hills. Motion carried unanimously.

**21. 20150225191**  
**Opened: 2/18/16**  
**First Licensed: 7/18/05**  
**Expiration: 9/10/16**  
**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 Wood and seconded by Commissioner Hills. Motion carried unanimously.

**22. 20150225211**  
**Opened: 2/18/16**  
**First Licensed: 4/22/92**  
**Expiration: 1/5/17**  
**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 and seconded by Commissioner Hills. Motion carried unanimously.

**23. 20150225951**  
**Opened: 2/18/16**  
**First Licensed: 10/14/13**  
**Expiration: 10/13/17**  
**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 Wood and seconded by Commissioner Hills. Motion carried unanimously.

**24. 20150226641**

**Opened: 2/22/16**

**First Licensed: 7/16/14**

**Expiration: 7/15/16**

**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 and seconded by Commissioner Taylor. Motion carried unanimously.

**25. 20150226671**

**Opened: 2/22/16** <sup>27</sup>

**First Licensed: 5/23/88**

**Expiration: 7/7/16**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

**Recommendation:** \$500 for violation of Rule 1260-02-.09(8)(trust money shall be disbursed in a proper manner without unreasonable delay and (9)(trust money shall be disbursed within 21 days of written request) and T.C.A. § 62-13-312(b)(15).

**DECISION:** The Commission authorized a Consent Order with a civil penalty in the amount of \$500 for violation of Rule 1260-02-.09(8)(trust money shall be disbursed in a proper manner without unreasonable delay and (9)(trust money shall be disbursed within 21 days of written request) and T.C.A. § 62-13-312(b)(15) plus attendance and successful completion of eight (8) hours of continuing education in property management within one hundred eighty (180) days of Respondent's execution of Consent Order. Motion made by Commissioner Hills and seconded by Commissioner Taylor. Motion carried unanimously.

**26. 2016000201**

**Opened: 2/22/16**

**First Licensed: 11/7/02**

**Expiration: 6/3/17**

**Type of License: Principal 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 and seconded by Commissioner Taylor. Motion carried unanimously.

**27. 2016001071**

**Opened: 2/25/16**

**First Licensed: 1/16/73**

**Expiration: 9/13/16**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

**Recommendation:** Dismiss.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Griess and seconded by Commissioner Franks. Motion carried unanimously.

**28. 2016001401**

**Opened: 3/10/16**

**History: No history of disciplinary action.**

**Recommendation:** Consent Order in the amount of \$1000 for unlicensed activity in violation of T.C.A. § 66-32-102(23)(timeshare resale broker must be a licensed real estate broker...)

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills and seconded by Commissioner Wood. Motion carried unanimously.

**29. 20150225151**

**Opened: 2/18/16**

**First Licensed: 4/25/96**

**Expiration: 7/20/17**

**Type of License: Broker**

**History: No history of disciplinary action.**

**Recommendation:** Consent Order with a civil penalty in the amount of \$500 for violation of Rule 1260-02-.08 (brokers and affiliate brokers shall make certain that all of the terms and conditions of the real estate transaction are included in the contract to purchase).

**DECISION:** The Commission authorized a civil penalty in the amount of \$1,000 for violation of Rule 1250-02.08 (brokers and affiliate brokers shall make certain that all of the terms and conditions of the real estate transaction are included in the contract to purchase) plus attendance and successful completion of eight (8) hours of continuing education in contracts within one hundred eighty (180) days of Respondent's execution of Consent Order. Motion made by Commissioner Taylor and seconded by Commissioner Hills. Motion carried unanimously.

The Commission requested that a complaint be opened against the Complainant (buyer's agent) and Principal Broker. Motion made by Commissioner Wood and seconded by Commissioner Griess. Motion carried unanimously.

**30. 20150225171**

**Opened: 2/18/16**

**First Licensed: 6/19/74**

**Expiration: 5/26/17**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

**Recommendation:** Consent Order with a civil penalty in the amount of \$500 for violation of T.C.A. § 62-13-312(b)(14) and (15) (failure to supervise).

**DECISION:** The Commission authorized a civil penalty in the amount of \$1,000 for violation of T.C.A. § 62-13-312(b)(14) and (15) (failure to supervise) plus attendance and successful completion of eight (8) hours of continuing education in contracts within one hundred eighty (180) days of Respondent's execution of Consent Order. Motion made by Commissioner Taylor and seconded by Commissioner Hills. Motion carried unanimously.

**31. 2016000671**

**Opened: 3/10/16**

**First Licensed: 3/26/02**

**Expiration: 7/30/16**

**Type of License: Firm**

**History: No history of disciplinary action.**

**Recommendation:** Consent order for \$500 for violation of Rule 1260-.02-.09(trust money shall be disbursed in a proper manner without unreasonable delay).

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Wood and seconded by Commissioner Franks. Motion carried unanimously.

**32. 20150225071**

**Opened: 02/16/16**

**First Licensed: 1/25/13**

**Expiration: 1/24/17**

**Type of License: Time Share Registration**

**History: No history of disciplinary action.**

**Recommendation:** Dismiss.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills and seconded by Commissioner Franks. Motion carried unanimously.

**33. 2016001281**

**Opened: 2/16/16**

**First Licensed: 1/6/10**

**Expiration: 1/5/18**

**Type of License: Time Share Salesperson**

**History: No history of disciplinary action.**

**Recommendation:** Dismiss.

**DECISION:** The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills and seconded by Commissioner Franks. Motion carried unanimously.

**Legal Report Addendum:**

Office of legal counsel received a request for a hearing from a licensee pursuant to T.C.A. § 62-13-312(f). This licensee is an affiliate broker who was first licensed in October of 2006 and has no prior disciplinary action. This individual pled guilty in federal court to one count of conspiracy to commit bank fraud. According to the facts set forth in the guilty plea, Respondent and the co-defendants in the case caused a “short sale” of residential property to take place from co-defendant husband to co-defendant wife using the wife’s maiden name in order to represent to the bank that it was an arms-length transaction. The commission has a few options on how to proceed with this matter that will be presented by counsel.

**DECISION:** The Commission voted to have a summary suspension hearing on June 1 at the regularly scheduled meeting of the Commission. Motion made by Commissioner Taylor and seconded by Commissioner Hills. Motion carried unanimously, Commissioner Griess recused.

**Meeting adjourned by Chairman John Griess at 3:23 pm.**