

TENNESSEE REAL ESTATE COMMISSION MINUTES
July 8 – 9, 2009

The Tennessee Real Estate Commission convened on July 8, 2009, at 9:05 a.m. in the Davy Crockett Tower at 500 James Robertson Parkway, Room 160, Nashville, TN 37243. **The following Commission Members were present: Chairman Charles Haynes, Vice-Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner Allen Woods, Commissioner David Flitcroft, Commissioner Carol Tate, Commissioner Wendell Alexander, Commissioner Grover Collins, and Commissioner Isaac Northern. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Legal Counsel and Kelly McDermott, Administrative Secretary.**

The first order of business was the election of the Chairman and Vice-Chairman for 2009-2010. Chairman Haynes made a short speech in which he thanked each Commissioner, past and present, for their hard work to accomplish many goals. **He concluded by nominating Vice-Chairman William "Bear" Stephenson for Chairman. Commissioner Alexander seconded the nomination. The floor was opened to nominations. Commissioner Northern nominated Commissioner Grover Collins for Chairman. His nomination was seconded by Commissioner Joh. Commissioner Alexander made a motion that nominations cease and the Commission vote. Commissioner Woods seconded the motion. Ms. Maxwell did a roll call vote. Commissioner Grover Collins was elected Chairman by roll call vote. The vote was 5 votes for Commissioner Collins and 4 votes for Commissioner Stephenson. Commissioner Flitcroft made a motion to accept Commissioner Collins as Chairman by acclamation thereby making the vote unanimous; seconded by Commissioner Woods; unanimous vote; motion carried. Commissioner Alexander nominated Commissioner Flitcroft for Vice-Chairman. Commissioner Woods nominated Commissioner Northern for Vice-Chairman; seconded by Commissioner Tate. Ms. Maxwell did a roll call vote. The vote was 5 votes for Commissioner Northern and 4 votes for Commissioner Flitcroft. Commissioner Isaac Northern was elected Vice-Chairman by roll call vote. Commissioner Woods made a motion to accept Commissioner Northern as Vice-Chairman by acclamation thereby making it unanimous; seconded by Commissioner Flitcroft; unanimous vote; motion carried.** Commissioner Collins and Commissioner Northern began acting as Chairman and Vice-Chairman respectively.

The next order of business was the adoption of the agenda (**Exhibit 1**) for the July 2009 Commission meeting. **Commissioner Joh made a motion to adopt the agenda; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**

The next order of business was the approval of the minutes from the June 2009 meeting (**Exhibit 2**). **Commissioner Woods made a motion to approve the June 2009 minutes; seconded by Commissioner Tate; vote: 8 yes, 0 no; Commissioner Flitcroft abstained as he was not present at the June meeting.**

Chairman Collins made a statement commending Commissioner Haynes on his service as Chairman.

EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented the following information to the Commission for review:

- **Complaint Statistics Report (Exhibit 3)** – TREC has a total of **287** open complaints. There are 27 new complaints since the June 2009 meeting. There are 281 complaints in the legal department and 6 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2009-2010 is 0. Total Civil Penalties paid in June 2009 were \$21,170.00.
- **Licensing Statistics** – Ms. Maxwell presented statistics (**Exhibit 4**) to the Commission on real estate licenses approved in 2008 & 2009 and the number of licensees as of July 1, 2009. As of July 1, 2009, there were 28,917 active licensees, 3,681 inactive licensees and 9,978 retired licensees. There were 4,449 active firms and 336 retired firms. There were 261 new applications approved in June 2009. Ms. Maxwell also presented statistics on license renewal percentages (i.e. how many sent by month, the number not renewed by the 61st day and the percentage of licensees not renewed). She also presented statistics on the number of test takers from 01/2007 – 06/2009 and the number of test takers by site from 01/01/2009 – 04/2009.

There was a brief discussion of progress being made regarding the assessment of penalties for Errors & Omissions Insurance delinquencies. Chairman Collins asked if any progress had been made in developing legislation to automatically suspend a license if the licensee does not have Errors & Omissions insurance. Chris Sexton, Director of Governmental Affairs for the Tennessee Association of Realtors, addressed the Commission regarding possible legislation regarding this matter. He advised that this legislation would be discussed over the summer and fall before the next legislative session.

- **ARELLO** – Ms. Maxwell addressed the Commission regarding the upcoming ARELLO Annual Conference in Miami, Florida from October 22 – 24, 2009.

There was a discussion regarding a First Quarter Claims Listing Report sent by Rice Insurance Company. It was the consensus of the Commission that more defined information is needed. **Commissioner Haynes made a motion to have Chairman Collins call Cindy Rice-Grissom, CEO of Rice Insurance, and request a suitable report; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**

Ms. Maxwell presented the Commission with a letter from the Kentucky Real Estate Commission (Exhibit 5) stating that as of July 15, 2009, the Kentucky Real Estate Commission will no longer offer reciprocal licensing to candidates licensed in other states. They will be utilizing license recognition. This will require active out-of-state

licensees to pass the state portion of their exam and submit all required application materials in order to be licensed in Kentucky. Additional pre-licensing education will not be required under this license recognition. **Commissioner Haynes made a motion to remove Kentucky from TREC's reciprocity list and require applicants from Kentucky to take the Tennessee state examination; seconded by Vice-Chairman Northern; unanimous vote; motion carried. Commissioner Alexander made a motion to make the change to reciprocity with Kentucky effective July 15, 2009; seconded by Commissioner Northern; unanimous vote; motion carried.**

EDUCATION REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

INSTRUCTOR REVIEWS (Exhibit 7) -

- **Ruth Fennell** - TAR is seeking approval for Ruth Fennell to be approved as an instructor to teach the following approved courses: NAR Green Core Course and NAR Green Residential Course. **Commissioner Woods made a motion to approve Ms. Fennell to teach the two courses; seconded by Commissioner Tate; unanimous vote; motion carried.**
- **Monica Neubauer** - TAR is seeking approval for Monica Neubauer to be approved as an instructor to teach the following approved courses: NAR Green Core Course and NAR Green Residential Course. **Vice-Chairman Northern made a motion to approve Ms. Neubauer to teach the two courses; seconded by Commissioner Joh; unanimous vote; motion carried.**
- **Harold "Buddy" Vaughn** - TAR has requested that Harold "Buddy" Vaughn be approved to teach the following approved courses: Accredited Buyer Representative (ABR); Innovative Marketing; E-Buyer; Successful Relocation Representative; Successful Buyer Rep. in New Home Sales; Land 101; International Real Estate for Local Markets; Harnessing the Power; Effective Negotiating for Real Estate Professionals; Foreclosure Opportunities for Buyers/Clients; SRES; Tax Deferred 1031 Real Property Exchange; Creative Land Planning; NAR Green Core Course; NAR Green Residential Course. **Commissioner Joh made a motion to approve Mr. Vaughn to teach the requested courses; seconded by Commissioner Woods; unanimous vote; motion carried.**
- **Joni Martin** - Middle Tennessee Association of Realtors (MTAR) is seeking approval for Joni Martin to be approved as an instructor to teach the following approved course: New Member Orientation Purchase & Sale Agreement (2 hours). **Vice-Chairman Northern made a motion to approve Ms. Martin to teach the course; seconded by Commissioner Woods; unanimous vote; motion carried.**
- **Terry Watson** - The Regional Education Forum (REF) is seeking approval for Terry Watson to be approved as an instructor to teach the following approved course: Accredited Buyers Representative (ABR). **Commissioner Joh made a motion to approve Mr. Watson to teach the course; seconded by Commissioner Woods; unanimous vote; motion carried.**
- **Bobby Braly** - Knoxville Area Association of Realtors (KAAR) is seeking approval for Bobby Braly to be approved as an instructor to teach a 20 minute segment entitled, Archaeology and Real Estate: Why Should you Care, of the

following approved course: Working with Historic Real Estate (3 hours).

Commissioner Joh made a motion to approve Mr. Braly to teach the course; seconded by Commissioner Tate; unanimous vote; motion carried.

- **David A. Floyd** - Tennessee Real Estate Educational Systems, Inc (TREES) is seeking approval for David Floyd to be approved as an instructor to teach the following approved courses: 60 hour Affiliate Pre licensing, 30 hour Course for New Affiliates, 30 hour Office Broker management and the TREC CORE 2009/2010 (4 hours). **Commissioner Tate made a motion to approve Mr. Floyd to teach the courses; seconded by Commissioner Stephenson; unanimous vote; motion carried.**
- Ms. Maxwell presented the following instructors who have submitted their information on the new Instructor Form. She has reviewed the Instructor Forms and the accompanying back up certificates, licenses and documents. She believes that the following individuals are currently qualified to teach the courses/disciplines for which they have sought approval from the Commission and based upon her review, she recommended that they be approved, if that is what the Commission decides.

- 1) Alicia Burch
- 2) Daniel Webber
- 3) Eric Dill
- 4) James Hart
- 5) Max Paul Pope
- 6) Robert L Popisil
- 7) Alan Betus
- 8) Barb Schwarz
- 9) Bette Vos
- 10) Brent Maybank
- 11) Clayton Purdom
- 12) David Blaycock
- 13) Frank L Cooke
- 14) Helen Carter
- 15) James Fields
- 16) James Tice
- 17) Janice T Houff
- 18) Jason Brockman
- 19) John C Ritchie
- 20) Joshua Lawhead
- 21) Larry Stoller
- 22) Monica Doll
- 23) Neal Graham
- 24) Nick Gromicko
- 25) Richard L Barden
- 26) Richard Linkemer
- 27) Richard Spore
- 28) Robert Johnson

- 29)Robert L Wood
- 30)Stephen Mettling
- 31)Bobbie Jo Nugent
- 32)Donna Christ
- 33)JoAnn Henslee
- 34)Stacy Scott Dudley

Vice-Chairman Northern made a motion to approve all 34 instructors; seconded by Commissioner Joh; unanimous vote; motion carried.

Ms. Maxwell presented courses for Commission evaluation (**Exhibit 6**). **Commissioner Alexander made a motion to not approve the course "What Realtors Must Know About Infrared and Acoustic Technology for Home Inspection."** seconded by Commissioner Stephenson; opened to discussion; **Commissioner Haynes made a motion to defer until the August meeting allowing staff to obtain more information from the provider; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**

Commissioner Woods made a motion to approve all of the remaining courses; seconded by Commissioner Joh; unanimous vote; motion carried.

Commissioner Flitcroft made a motion that the Commission go on record as urging the Commissioner and Assistant Commissioner to provide TREC with an Education Director; seconded by Commissioner Tate; unanimous vote; motion carried.

Chairman Collins recessed the meeting for lunch at 11:02 a.m. The meeting reconvened at 12:55 p.m.

INFORMAL CONFERENCE

Kathy "Lorraine" Rohleder, applicant, appeared before the Commission with her Principal Broker Landis Foy to seek approval for an affiliate broker license. Ms. Rohleder disclosed a conviction of Aggravated Assault in 1991. **Commissioner Joh made a motion to approve; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**

Commissioner Woods made a motion to modify the agenda to proceed with the items on the agenda originally scheduled for the next day; seconded by Vice-Chairman Northern; opened to discussion; Commissioner Woods withdrew his motion and Vice-Chairman Northern withdrew his second.

Steve Majchrzak, Assistant Commissioner of Regulatory Boards, addressed the Commission regarding various concerns of the Commission.

Commissioner Woods made a motion to modify the agenda to proceed with the items on the agenda originally scheduled for the next day; seconded by Vice-Chairman Joh; unanimous vote; motion carried.

LEGAL REPORT, KATHRYN WISEMAN, GENERAL COUNSEL (EXHIBIT 8)

- 1) 2007058081 &
- 2) 2007058051 &
- 3) 2007059661 &
- 4) 2007063701 &
- 5) 2007058501 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.
- 6) 2007054891 – Commissioner Woods made a motion to accept legal counsel’s recommendation and close and flag the file; seconded by Commissioner Joh; unanimous vote; motion carried.
- 7) 2007058631 – Commissioner Joh made a motion to dismiss; seconded by Vice-Chairman Northern; unanimous vote; motion carried.
- 8) 2007053141 – Commissioner Tate made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.
- 9) 2007055541 &
- 10) 2007055542 &
- 11) 2007055543 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Tate; opened to discussion; roll call vote: 2 yes, 6 no; motion failed. Vice-Chairman Northern made a motion to dismiss complaint #2007055543; seconded by Commissioner Flitcroft; unanimous vote; motion carried. Commissioner Flitcroft made a motion in which he offered to review and evaluate complaint 2007055541 & 2007055542; seconded by Vice-Chairman Northern; unanimous vote; motion carried.

Chairman Collins recessed the meeting Wednesday, July 8, 2009 at 3:02 p.m.

TENNESSEE REAL ESTATE COMMISSION
July 9, 2009

The Tennessee Real Estate Commission reconvened on July 9, 2009 at 9:12 a.m. in the Davy Crockett Tower at 500 James Robertson Parkway, Room 160, Nashville, TN 37243. **The following Commission Members were present: Chairman Grover Collins, Vice-Chairman Isaac Northern, Commissioner William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner Allen Woods, Commissioner David Flitcroft, Commissioner Carol Tate and Commissioner Wendell Alexander. Commissioner Charles Haynes joined the meeting at 10:28 a.m. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Legal Counsel and Kelly McDermott, Administrative Secretary.**

LEGAL REPORT, KATHRYN WISEMAN, GENERAL COUNSEL (EXHIBIT 8) – continued

- 12) **2007088421 – Commissioner Flitcroft made a motion to defer for further investigation; seconded by Commissioner Stephenson; opened to discussion; roll call vote: 3 yes, 5 no; motion failed. Commissioner Joh made a motion to close with a Letter of Warning; seconded by Commissioner Woods; unanimous vote; motion carried.**
- 13) **2007059641 – Commissioner Joh made a motion to dismiss; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**
- 14) **2007060171 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.**
- 15) **2007058351 – Commissioner Tate made a motion to dismiss; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**
- 16) **2007058671 – Commissioner Flitcroft made a motion to refer the complaint to the Tennessee Board for Licensing Contractors; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**
- 17) **2007060241 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 18) **2007059731 &**
- 19) **2007059732 – Commissioner Flitcroft made a motion to accept legal counsel's recommendation to dismiss against the Broker and refer the agent to the Tennessee Board for Licensing Contractors; seconded by Commissioner Woods; unanimous vote; motion carried.**
- 20) **2007061701 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Tate; 6 yes, 0 no; Commissioner Flitcroft abstained; motion carried.**
- 21) **2007060251 – Commissioner Tate made a motion to accept legal counsel's recommendation to close with a Letter of Warning; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**
- 22) **2007060941 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**
- 23) **2007061691 &**
- 24) **2007061692 – Commissioner Woods made a motion to accept legal counsel's recommendation to dismiss and open a new complaint for failure to complete administrative measures; seconded by**

- Commissioner Joh; Commissioner Flitcroft made a friendly amendment to also include failure to obtain Errors & Omissions insurance; Commissioner Woods and Commissioner Joh accepted Commissioner Flitcroft's friendly amendment; amendment passed unanimously; motion as amended passed unanimously.**
- 25) 2007061941 – Commissioner Woods made a motion to close with a Letter of Warning and require the respondent to complete 10 hours of continuing education in the field of ethics within the next 12 months; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 26) 2007060951 &**
- 27) 2008006361 – Commissioner Woods made a motion to issue a Consent Order with a civil penalty of \$750.00 for each instance for failure to provide documentation of the transaction; seconded by Vice-Chairman Northern; opened to discussion; Commissioner Woods modified his motion to close 2007060951 with a Letter of Warning and issue a Consent Order with a civil penalty of \$750.00 to 2008006361 for failure to provide documentation of the transaction; unanimous vote; motion carried.**
- 28) 2007063681 – Commissioner Woods made a motion to dismiss; seconded by Commissioner Joh, unanimous vote; motion carried.**
- 29) 2007063651 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 30) 2007064671 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**
- 31) 2007063251 – Commissioner Stephenson made a motion to take legal counsel's recommendation to dismiss; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**
- 32) 2007063691 – Vice-Chairman Northern made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 33) 2007064691 – Vice-Chairman Northern made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 34) 2007064571 – Vice-Chairman Northern made a motion to accept legal counsel's recommendation to dismiss; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**
- 35) 2007064601 – Commissioner Stephenson made a motion to accept legal counsel's recommendation to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 36) 2007066641 – Vice-Chairman Northern made a motion to dismiss; seconded by Commissioner Stephenson; unanimous vote; motion carried.**
- 37) 2007066581 &**
- 38) 2007066582 &**
- 39) 2007066583 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Tate; unanimous vote; motion carried.**

Commissioner Haynes joined the meeting at 10:28 a.m.

- 40) **2007063741 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.**
- 41) **2007065671 – Commissioner Tate made a motion to dismiss; seconded by Commissioner Stephenson; unanimous vote; motion carried.**
- 42) **2007064491 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Stephenson; unanimous vote; motion carried.**
- 43) **2007058221 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**
- 44) **2007067351 – Commissioner Tate made a motion to dismiss; seconded by Commissioner Stephenson; opened to discussion; Commissioner Woods made a friendly amendment to open a complaint against respondent for failure to complete administrative measures after she was broker released on 4/1/2009 and failed to complete administrative measures to retire, or affiliate with another firm; seconded by Vice-Chairman Northern; amendment passed unanimously; motion as amended passed unanimously.**
- 45) **2007067201 – Commissioner Woods made a motion to dismiss; seconded by Commissioner Joh; opened to discussion; Commissioner Flitcroft made a motion to require the respondent to complete 10 hours of continuing education in contract preparation; no second. Commissioner Woods withdrew his motion to dismiss and Commissioner Flitcroft withdrew his motion to impose an educational requirement. Commissioner Haynes made a motion to have Commissioner Joh review and evaluate the complaint; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**
- 46) **2007065261 &**
- 47) **2007065262 – Commissioner Woods made a motion to accept legal counsel’s recommendation to close with a Letter of Warning; seconded by Commissioner Joh; unanimous vote; motion carried.**

Ms. Wiseman reviewed the Legal File Summary and Consent Order Log with the Commission.

Commissioner Alexander requested a report be compiled outlining the outcome of a chosen month’s complaints over a period of the last five years. He wants the report to include the number of complaints dismissed and the number of complaints in which the Commission took legal action.

COMMISSIONER REPORTS

Chairman Grover Collins, Vice Chairman Isaac Northern, Commissioner David Flitcroft, Commissioner Valerie Joh, Commissioner Allen Woods, Commissioner Charles Haynes, Commissioner Carol Tate, Commissioner Wendell Alexander and Commissioner Bear Stephenson reported on matters of concern to them and to the Commission.

COMMENTS FROM ATTENDEES

Chairman Haynes called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

The attendees were presented certificates for attending the Commission meeting.

Chairman Haynes adjourned the meeting Thursday, July 9, 2009 at 11:18 a.m.