

TENNESSEE REAL ESTATE COMMISSION MINUTES
November 4 – 5, 2009

The Tennessee Real Estate Commission convened on November 4, 2009, at 9:17 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 Wendell Alexander, Commissioner Charles Haynes, Commissioner Valerie Joh, Commissioner William "Bear" Stephenson and Commissioner Carol Tate. Commissioner David Flitcroft was absent. Commissioner Allen Woods was absent because he was required to be in Federal Court. Others Present: Eve Maxwell, Executive Director, Robyn Ryan, Assistant General Counsel and Kelly McDermott, Administrative Secretary.**

The first order of business was the adoption of the agenda (**Exhibit 1**) for the November 2009 Commission meeting. **Commissioner Haynes made a motion to adopt the agenda; seconded by Commissioner Tate; unanimous vote; motion carried.**

The next order of business was the approval of the minutes from the October 2009 meeting (**Exhibit 2**). **Commissioner Joh made a motion to approve the October 2009 meeting minutes; seconded by Commissioner Stephenson; vote: 5 yes, 0 no, Commissioner Haynes and Commissioner Alexander abstained as they were absent from the October 2009 meeting; motion carried.**

Chairman Collins reported on the ARELLO Annual Conference which he and Vice-Chairman Northern attended in October.

Chairman Collins brought up an article written by Chairman of the Tennessee Auctioneer's Commission Marvin Alexander. Chairman Collins complimented Chairman Alexander on the positive nature of the article which highlighted the excellent job the Auctioneer Commission staff is doing. Commissioner Collins encouraged his fellow Commissioners to strive to set a positive example for the real estate licensees and industry as the Auctioneer's Commission had done so effectively.

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 **209** open complaints. Of those 209 open complaints, 67 are Errors & Omissions insurance complaints. There are 17 new complaints since the October 2009 meeting. There are 206 complaints in the legal department and 3 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2009-2010 is 200. Total Civil Penalties paid in October 2009 were \$53,550.00.

There was a discussion regarding ways the Commission can be proactive to prevent future issues with Errors & Omissions compliance. **Commissioner Haynes made a motion to have Ms. Ryan, Assistant General Counsel, review the RFP for Errors & Omissions insurance and determine if the Commission may request Rice Insurance send renewal notices 120 days in advance of expiration; seconded by Commissioner Tate; unanimous vote; motion carried.**

- **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 October 30, 2009. As of October 30, 2009, there were 28,478 active licensees, 2,445 inactive licensees and 10,248 retired licensees. There were 4,473 active firms and 346 retired firms. There were 119 new applications approved in October 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 – 09/27/2009 and the number of test takers by site from 01/01/2009 – 09/27/2009.

There was a brief discussion regarding the dates of the April 2010 meeting. **Commissioner Stephenson made a motion to move the meeting to Wednesday, April 7, 2010 and Thursday, April 8, 2010; seconded by Commissioner Haynes; unanimous vote; motion carried. After discussion, it was determined the ARELLO Mid-Year meeting is April 7 – 10, 2010. Commissioner Haynes made a motion to move the April 2010 to Thursday, April 1, 2010 and Friday, April 2, 2010; seconded by Commissioner Joh; unanimous vote; motion carried.**

EDUCATION REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented courses for Commission evaluation (**Exhibit 3**). **Commissioner Haynes made a motion to defer the course "Accredited Staging Professional" to allow closer review of the internet course by one of the Commissioners; seconded by Commissioner Joh; unanimous vote; motion carried.**

Commissioner Haynes made a motion to approve the remaining Courses for Commission Evaluation presented by Ms. Maxwell; seconded by Commissioner Joh; unanimous vote; motion carried.

INSTRUCTOR APPROVAL REQUESTS

International Association of Certified Property Inspectors sought approval for Houston L. Pewett, Jr. to be approved as an instructor to teach the 4 hour classroom course, "What Every Real Estate Agent Needs to Know about Home Inspections". **Commissioner Joh made a motion to approve; seconded by Commissioner Stephenson; unanimous vote; motion carried.**

SunTrust Mortgage, Inc. is seeking approval for Kimberly E. Swann to be approved as an instructor to teach the 4 hour classroom course, "Back to the Basics of Real Estate Finance". **Commissioner Tate made a motion to approve; seconded by Commissioner Joh; unanimous vote; motion carried.**

INFORMAL CONFERENCE

Tamara Webb, applicant, appeared before the Commission with her potential Principal Broker William R. Hostettler to seek approval for an affiliate broker license. Ms. Webb disclosed misdemeanor convictions of Criminal Attempt, Theft of Trade Secrets and Second Degree Forgery in 1997 and DUI in 2005. **Commissioner Haynes made a motion to approve; seconded by Commissioner Stephenson; unanimous vote; motion carried.**

Chairman Collins recessed the meeting for lunch. The Bill C. Tune Award for excellence in real estate education was awarded to Commissioner Charles Haynes at an award ceremony. The meeting reconvened at 1:32 p.m.

Gara Lynette Gossett, applicant, appeared before the Commission with her potential Principal Broker Robert E. Leigh, III to seek approval for an affiliate broker license. Ms. Gossett disclosed a conviction of Attempted False Pretense in 2006. **Commissioner Haynes made a motion to defer any determination regarding Ms. Gossett's request until she is licensed in her home state of Mississippi; seconded by Wendell Alexander for discussion; opened to discussion; vote: 4 yes, 3 no; motion carried.** There was a discussion regarding reciprocity with the State of Mississippi. **Commissioner Haynes made a motion to have Ms. Maxwell contact the Executive Director of the Mississippi Real Estate Commission and have him, in a letter, define the term reciprocity in accordance with their current licensing procedure; no second; no vote; Commissioner Alexander made a motion that until the situation is clarified that TREC Staff be instructed to not issue any license to an applicant from Mississippi in the same situation as Ms. Gossett in that she lives in Mississippi, went to school, tested and applied in Tennessee so she could secure reciprocity with her home state of Mississippi; seconded by Commissioner Haynes; unanimous vote; motion carried. After discussion, Commissioner Alexander made a motion to apply his motion to include any other state as well with which Tennessee has a reciprocity agreement; seconded by Commissioner Stephenson; unanimous vote; motion carried. Vice-Chairman Northern made a motion to suspend the rules to allow Ms. Peggy Lee, Marketing Director for Bob Leigh & Associates to address the Commission; seconded by Commissioner Joh; unanimous vote; motion carried.** Ms. Lee made an appeal on Ms. Gossett's behalf. However, the Commission will follow through on the motions made in respect to this conference.

Vulzeno Blount, applicant, appeared before the Commission with his potential Principal Broker Gay Nell Rittenberry to seek approval for an affiliate broker license. Mr. Blount disclosed convictions of Receiving Stolen Property, Attempted Theft of a Motor Vehicle, Theft and Burglary of a Motor Vehicle in 1988. **Commissioner Stephenson made a motion to approve; seconded by Commissioner Alexander; unanimous vote; motion carried.**

LEGAL REPORT, ROBYN RYAN, ASSISTANT GENERAL COUNSEL

- 1) 2008012841 – The complaint is being reviewed by Commissioner Tate. The complaint was deferred until December.
- 2) 2007050761 – The complaint is being reviewed by Commissioner Flitcroft. Since Commissioner Flitcroft was absent the complaint was deferred.
- 3) 2007066161 – The complaint is being reviewed by Commissioner Woods. Since Commissioner Woods was absent, the complaint was deferred.
- 4) 2006037641 &
- 5) 2006037642 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Stephenson; unanimous vote; motion carried.
- 6) 2006034291 – Vice-Chairman Northern made a motion to dismiss; seconded by Commissioner Tate; unanimous vote; motion carried.
- 7) 2007064641 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Stephenson for discussion; opened to discussion; unanimous vote; motion carried.
- 8) 2007085081 – Vice-Chairman Northern made a motion to dismiss; seconded by Commissioner Tate; unanimous vote; motion carried.
- 9) 2007086301 – Commissioner Tate made a motion to dismiss; seconded by Commissioner Joh; vote: 5 yes, 1 no (Commissioner Haynes voted no); motion carried.
- 10) 2007083551 – Commissioner Alexander made a motion to accept legal counsel's recommendation to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.
- 11) 2007088032 &
- 12) 2007088031 – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.
- 13) 2007087301 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Tate; unanimous vote; motion carried.
- 14) 2007087311 &
- 15) 2007087312 – Commissioner Tate made a motion to send a Letter of Instruction regarding Rule 1260-2-.09(6) [Escrow funds to be disbursed without a reasonable delay] to the Respondents and the Principal Broker; seconded by Commissioner Joh; roll call vote: 3 yes, 3 no; motion failed for lack of a majority. Vice-Chairman Northern made a motion to issue an Agreed Citation with a penalty of \$500.00 to the Principal Broker that was holding the earnest money for failure to submit to interpleader in a timely manner; seconded by Commissioner Haynes; roll call vote: 4 yes, 2 no (Commissioner Tate and Commissioner Joh voted no, Commissioner Stephenson abstained because he was out of the meeting room for the discussion; motion carried. Commissioner Haynes made a motion to dismiss as to the two Respondents; seconded by Commissioner Tate; vote: 4 yes, 1 no (Commissioner Joh voted no.), Commissioner Stephenson abstained

- because he was out of the meeting room for the discussion; motion carried.
- 16) **2007086591 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.**
 - 17) **2007085681 – Commissioner Joh made a motion to accept legal counsel’s recommendation to issue a Letter of Warning regarding T.C.A. 62-13-312 (19) [Unauthorized practice of law in providing lease] and open a new complaint for failure to complete administrative measures and failure to carry Errors & Omissions insurance; seconded by Commissioner Stephenson for discussion; opened to discussion; Vice-Chairman Northern made a motion to send an auditor to audit respondent’s firm; seconded by Commissioner Haynes; Commissioner Alexander made a motion to defer the complaint until an audit is performed and reviewed; seconded by Commissioner Haynes; Commissioner Joh withdrew her motion; vote on Commissioner Alexander’s motion to defer was unanimous; motion carried. Vice-Chairman Northern made a motion to send an auditor to the respondent’s firm; seconded by Commissioner Haynes; unanimous vote; motion carried.**
 - 18) **2007083841 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Stephenson; vote: 5 yes, 0 no; motion carried.**
 - 19) **2009019551 – Commissioner Haynes made a motion to authorize Legal to file for a formal hearing; seconded by Commissioner Alexander; unanimous vote; motion carried.**
 - 20) **2007062901 &**
 - 21) **2007062902 – Commissioner Haynes made a motion to file for a formal hearing; no second; opened to discussion; Commissioner Alexander made a motion to send an auditor to the firm and after review of the audit the complaint will again be presented to the Commission; seconded by Commissioner Haynes; unanimous vote; motion carried.**
 - 22) **2007087331 – Commissioner Alexander made a motion to dismiss; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**
 - 23) **2007083562 &**
 - 24) **2007083561 – Commissioner Joh made a motion to accept legal counsel’s recommendation to send a Letter of Instruction regarding T.C.A. 62-13-403(1) [Diligently exercise reasonable skill and care in providing services] requiring 8 hours continuing education be completed in contract writing to Respondent 1 and dismiss as to Respondent 2; seconded by Commissioner Stephenson; unanimous vote; motion carried.**
 - 25) **2007078391 – Commissioner Stephenson made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**

- 26) **2007069171 – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.**
- 27) **2007066701 – Vice-Chairman Northern made a motion to accept legal counsel’s recommendation to send a Letter of Warning regarding T.C.A. 62-13-403(2) [failure to disclose any adverse facts of which licensee has actual notice or knowledge]; seconded by Commissioner Haynes; unanimous vote; motion carried.**
- 28) **2007087981 – Commissioner Tate made a motion to dismiss; seconded by Vice-Chairman Northern; unanimous vote; motion carried.**
- 29) **2007089171 – Commissioner Alexander made a motion to accept legal counsel’s recommendation to Close and Flag for re-advertising; seconded by Commissioner Haynes; unanimous vote; motion carried.**
- 30) **2007089431 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Tate; unanimous vote; motion carried.**
- 31) **2007062551 – Commissioner Stephenson made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**

Chairman Collins left the meeting for a few moments and Vice-Chairman Northern chaired the meeting until the meeting recessed for the day.

- 32) **2007085691 – Commissioner Haynes made a motion to have Commissioner Stephenson review the file; seconded by Commissioner Alexander; after discussion, Commissioner Haynes withdrew his motion. Commissioner Tate made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**

Chairman Collins returned to the meeting room.

- 33) **2007070591 &**
- 34) **2007070592 &**
- 35) **2007070593 – Commissioner Haynes made a motion to issue a Consent Order with a civil penalty of \$500.00 to each Respondent; seconded by Commissioner Tate; unanimous vote; motion carried.**
- 36) **2007055751 &**
- 37) **2007055752 &**
- 38) **2007055753 – Commissioner Collins made a motion to accept legal counsel’s recommendation to send Letters of Warning regarding Rule 1260-20.01 [Supervision of Affiliate Brokers]; seconded by Commissioner Stephenson; unanimous vote; motion carried.**
- 39) **2007088111 – Commissioner Collins made a motion to accept legal counsel’s recommendation to send a Letter of Warning 62-13-403(1) - Diligently exercise reasonable skill and care; seconded by Commissioner Haynes; unanimous vote; motion carried.**

- 40) **2007085041 – Commissioner Haynes made a motion to issue an Agreed Citation with a penalty of \$1000.00 to the Principal Broker for failure to supervise the Team Leader and Respondent and further requiring the Team Leader and Respondent to complete 16 hours of continuing education in contract writing, eight of which may be completed by attending a two day Commission meeting, to be completed within six months; seconded by Commissioner Alexander; opened to discussion; roll call: 4 yes, 2 no; motion carried.**

Vice-Chairman Northern recessed the meeting Wednesday, November 4, 2009 at 4:31 p.m.

**TENNESSEE REAL ESTATE COMMISSION
November 5, 2009**

The Tennessee Real Estate Commission reconvened on November 5, 2009 at 9:07 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 Wendell Alexander, Commissioner Valerie Joh, Commissioner William "Bear" Stephenson and Commissioner Carol Tate. Commissioner David Flitcroft and Commissioner Charles Haynes were absent. Commissioner Allen Woods was absent because he was required to be in Federal Court. Others Present: Eve Maxwell, Executive Director, Robyn Ryan, Assistant General Counsel, Mandy Spencer, Paralegal and Kelly McDermott, Administrative Secretary.**

The Commission stood in recess at 9:08 a.m. to conduct a formal hearing in the matter of Peggy O. Headrick, license #233474, Docket # 12.18-101070A.

Chairman Collins recessed the formal hearing for lunch at 12:04 p.m. and reconvened the formal hearing at 1:10 p.m.

The formal hearing of Peggy O. Headrick continued.

The Commission ordered the revocation of the license of Peggy O. Headrick, license #233474, Docket #12.18-101070A. They assessed a penalty of \$5,000.00 and further ordered that Ms. Headrick pay the costs of the formal hearing. The Commission also found Ms. Peggy O. Headrick is untrustworthy and dishonest and is not qualified to apply for any license in the future.

The formal hearing adjourned at 4:28 p.m.

Chairman Collins adjourned the meeting Thursday, November 5, 2009 at 4:29 p.m.