



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 March 9, 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 Commission meeting.

Mr. Young, Executive Director called roll.

Commission Members present: Chairman John Griess, Vice-Chairman Janet DiChiara, Commissioner Diane Hills, Commissioner Marcia Franks, Commissioner Bobby Wood, Commissioner Fontaine Taylor, and Commissioner Johnny Horne; absent from meeting were Commissioner Gary Blume and Commissioner Austin McMullen. Others present: Executive Director Malcolm Young, Assistant General Counsel Mallorie Kerby, Paralegal Jennaca Harris and Administrative Secretary Kimberly Smith.

AGENDA- Chairman Griess moved Scott Boruff to the June meeting and the discussion of teams be moved to June meeting.

Motion made by Commissioner DiChiara and seconded by Commissioner Franks to approve the agenda as amended. Motion carried unanimously.

MINUTES-

Minutes for the February 10, 2016 board meetings were submitted for changes and/or approval.

Motion made by Commissioner DiChiara and seconded by Commissioner Franks to approve the February 10, 2016 minutes. Motion carried unanimously.

SPECIAL APPEARANCES-

Bill Giannini – Deputy Commissioner

Brian McCormack – Assistant Commissioner

Cindy Rice Grissom – Rice Insurance - Update on Claims on Errors and Omissions Insurance

Robyn Ryan – Legal Counsel - Presentation of proposed terms for agreed order in case no. 2014020071.

Motion made by Commissioner DiChiara and seconded by Commissioner Horne to accept the proposed terms of the agreed order. Motion carried unanimously.

INFORMAL APPEARANCE-

Application for Affiliate Broker licensure; Robin Laine Baker.

Motion made by Commissioner Wood and seconded by Commissioner Franks to approve applicant for licensure process. Motion carried unanimously.

Application for Affiliate Broker licensure; Joseph Allan Qualls.

Motion made by Commissioner Franks and seconded by Commissioner Horne to approve application for licensure process. Motion carried unanimously.

Application for Affiliate Broker licensure: Somer Brooke Harmon.

Motion made by Commissioner Horne and seconded by Commissioner Hills to approve application for licensure process. Motion carried unanimously.

Application for Timeshare Salesperson: Sara Ann Morris.

Motion made by Commissioner DiChiara and seconded by Commissioner Franks to approve application for licensure process. Motion carried unanimously.

Application for examination Affiliate Broker: Martiane V. Rorie.

Motion made by Commissioner Wood and seconded by Commissioner DiChiara to approve application for examination with a signed Agreed Order. Motion carried unanimously.

Application for examination Affiliate Broker: Ricardo Page.

Motion made by Commissioner Franks and seconded by Commissioner DiChiara to approve application for licensure process. Motion carried roll call vote 6 yes and 1 no.

COMMISSION DISCUSSION- on Revision of rules

Motion made by Commissioner Franks and seconded by Commissioner DiChiara to accept the proposed rules as drafted by legal counsel. Motion carried unanimously.

Motion made by Commissioner DiChiara and seconded by Commissioner Taylor to approve Regulatory Flexibility Analysis as drafted by legal counsel. Motion carried unanimously.

Motion made by Commissioner DiChiara and seconded by Commissioner Hills to continue with the proposed rules process. Motion carried unanimously.

EDUCATION REPORT-

Motion made by Commissioner DiChiara to approve courses M1-M19 and seconded by Commissioner Taylor. Motion carried unanimously.

Motion made by Commissioner Franks to approve instructors M1-M19 and seconded by Commissioner Wood. Motion carried unanimously.

EXECUTIVE DIRECTORS REPORT-

Review of Financial and Statistical Reports

LEGAL REPORT- STAFF ATTORNEY

1. 20140063321

Opened: 5/2/14

First License Obtained: 12/3/07

License Expiration: 12/2/15

E&O Expiration: 1/1/15

Type of License: Affiliate Broker

History: No Prior Disciplinary Action

This Respondent was broker released on or about 3/7/14.

New Recommendation: Close and flag if Respondent if Respondent should ever apply for another license.

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

Motion made by Commissioner DiChiara and seconded by Commissioner Taylor for approval of the Legal Recommendation. Motion carried unanimously.

2. 2014003861

Opened: 3/28/14

First License Obtained: 9/9/11

License Expiration: 9/8/13

E&O Expiration: 1/1/15

Type of License: Principal Broker

History: No Prior Disciplinary Action

****License has been suspended since 6/7/13; now suspended for multiple reasons.****

Recommendation: Close and flag to be re-opened should Respondent attempt to secure a new license

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

Motion made by Commissioner DiChiara and seconded by Commissioner Taylor for approval of the Legal Recommendation. Motion carried unanimously.

3. **20150215381**
Opened: 10/11/15
First Licensed: 12/17/85
Expiration: 9/1/17
Type of License: Affiliate Broker
History: 2006028871 Letter of Warning

New Recommendation: Consent Order in the amount of \$500 for the initial advertising violation in the complaint of Rule 1260-02-.12 (2)(b) (effective June 14, 2010)(all advertising...shall list the firm name and telephone number).

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

Motion made by Commissioner Franks and seconded by Commissioner Wood for approval of the Legal Recommendation. Motion carried unanimously.

4. **20150217231**
Opened: 10/21/15
License First Obtained: 9/12/03
License Expiration: 6/30/16
Type of License: Affiliate Broker
History: No prior disciplinary action

DECISION: \$1,000 for violation of T.C.A. § 62-13-403(1)(reasonable skill and care) for telling seller Complainant would pay closing cost without permission and lack of communication regarding the 48-hour deadline, \$500 for violation of T.C.A. § 62-13-403(advising the client as to whatever forms, procedures, and steps are needed after the execution of the purchase and sale agreement for a successful closing), and \$500 for violation of T.C.A. § 62-13-401(an agency shall not be assumed implied or created without a bilateral written agreement...) and \$1,000 for violation of rule T.C.A. § 62-13-312(b)(20)(improper dealing) and T.C.A. § 62-13-312(b)(14) for a total civil penalty of \$3,000 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 agency and at least for hours (4) in contracts, all within one hundred eighty (180) days of Respondent's execution of Consent Order. Such continuing education hours should be over and above the minimum continuing education requirements for licensure.

Motion made by Commissioner DiChiara and seconded by Commissioner Taylor for approval of the Legal Recommendation as amended. Motion carried unanimously.

5. **20150217251**
Opened: 10/21/15
License First Obtained: 8/10/87
License Expiration: 2/15/17
Type of License: Principal Broker
History: No prior disciplinary action

DECISION: \$1,000 for violation of T.C.A. § 62-13-312(b)(14) and (15)(failure to supervise) plus either attendance at one entire regularly scheduled meeting of the Commission or attend and successfully complete a total of six (6) hours Core course, all within one hundred eighty (180) days of Respondent's execution of Consent Order.

Motion made by Commissioner DiChiara and seconded by Commissioner Franks for approval of the Legal Recommendation as amended. Motion carried 5 yes and 1 abstention.

6. 20150217441

Opened: 10/21/15

License First Obtained: 3/12-15

License Expiration: 3/11/17

Type of License: Real Estate Firm

History: 20150218041under review

DECISION: \$1000 for violation of T.C.A. § 66-32-121(f)(2)(F)(makes any willful or negligent misrepresentation or omission of material fact about a time share) and \$1000 for violation of T.C.A. § 66-32-121(f)(2)(H)(improper, fraudulent, or dishonest dealing).

Motion made by Commissioner Franks and seconded by Commissioner Taylor for approval of the Legal Recommendation as amended. Motion carried unanimously.

7. 20150217601

Opened: 10/22/15

License First Obtained: 4/22/02

License Expiration: 9/13/17

Type of License: Principal Broker

History: No Prior Disciplinary Action

DECISION: \$1000 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).

Motion made by Commissioner Franks and seconded by Commissioner DiChiara for approval of the Legal Recommendation as amended. Motion carried unanimously.

8. 20150217691

Opened: 10/22/15

License First Obtained: 8/21/95

License Expiration: 1/9/16

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 DiChiara and seconded by Commissioner Hills for approval of the Legal Recommendation. Motion carried unanimously.

9. 20150217721

Opened: 10/22/15

License First Obtained: 12/30/81

License Expiration: 1/11/17

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 DiChiara and seconded by Commissioner Franks for approval of the Legal Recommendation. Motion carried unanimously.

10. 20150218571

Opened: 12/23/15

First Licensed: 11/7/07

Expiration: 6/27/16

Type of License: Principal Broker

History: 2015014631 Litigation Monitoring as of 9/28/15

Recommendation: Dismiss.

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

Motion made by Commissioner Wood and seconded by Commissioner Hills for approval of the Legal Recommendation. Motion carried unanimously.

11. 20150218701

Opened: 12/23/15

First Licensed: 4/14/15

Expiration: 4/13/17

Type of License: Affiliate Broker

History: 20150218591 Under Legal Review (duplicate complaint)

DECISION: Consent Order in the amount of \$1,000 in violation of T.C.A. § 62-13-309(licensed firm) and \$1000 in violation of T.C.A. § 62-13-312(b)(4)(misleading or untruthful advertising), (14), 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 agency and at least for hours (4) in contracts, all within one hundred eighty (180) days of Respondent's execution of Consent Order. Such continuing education hours should be over and above the minimum continuing education requirements for licensure.

Motion made by Commissioner Taylor and seconded by Commissioner DiChiara for approval of the Legal Recommendation as amended. Motion carried unanimously.

12. 20150218591

Opened: 3/1/16

First Licensed: 4/14/15

Expiration: 4/13/17

Type of License: Affiliate Broker

History: 20150218701 Under Legal Review

Recommendation: Closed with no further action.

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

Motion made by Commissioner Franks and seconded by Commissioner Hills for approval of the Legal Recommendation as amended. Motion carried unanimously.

13. 20150218721

Opened: 12/23/15

First Licensed: 1/13/06

Expiration: 12/13/16

Type of License: Principal Broker

History: No history of disciplinary action.

Recommendation: Consent Order in the amount of \$1,000 in violation of T.C.A. § 62-13-312(b)(14) and (15)(failure to supervise).

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

Motion made by Commissioner Hills and seconded by Commissioner Franks for approval of the Legal Recommendation as amended. Motion carried unanimously.

14. 20150218741

Opened: 12/23/15

First Licensed: 8/26/08

Expiration: 8/25/16

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 Hills and seconded by Commissioner Taylor for approval of the Legal Recommendation. Motion carried unanimously.

15. 20150218811

Opened: 12/23/15

First Licensed: 6/25/04

Expiration: 6/20/16

Type of License: Broker

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 Hills for approval of the Legal Recommendation. Motion carried unanimously.

16. 20150227441

Opened: 12/23/15

First Licensed: 9/1/95

Expiration: 10/4/16

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 Hills and seconded by Commissioner Wood for approval of the Legal Recommendation. Motion carried unanimously.

17. 20150218941

Opened: 12/29/15

First Licensed: 2/14/05

Expiration: 7/28/16

Type of License: Principal Broker

History: 20150218961—Under legal review.

Recommendation: Dismiss.

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

Motion made by Commissioner Wood and seconded by Commissioner Taylor for approval of the Legal Recommendation. Motion carried unanimously.

18. 20150218961

Opened: 12/29/15

First Licensed: 2/14/05

Expiration: 7/28/16

Type of License: Principal Broker

History: 20150218941—Under legal review.

Recommendations: Dismiss.

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

Motion made by Commissioner Hills and seconded by Commissioner DiChiara for approval of the Legal Recommendation. Motion carried unanimously.

19. 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.

DECISION: Consent Order in the amount of \$1000 for failure to respond in violation of T.C.A. § 62-13-313(a)(2) and T.C.A. § 62-13-312(b)(14). Open a subsequent complaint against Respondent and the other licensee listed as a Defendant in the court complaint.

Motion made by Commissioner DiChiara and seconded by Commissioner Hills for approval of the Legal Recommendation as amended. Motion carried unanimously.

20. 20150219411

Opened: 12/29/15

First Licensed: 7/28/04

Expiration: 3/21/16

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 DiChiara and seconded by Commissioner Wood for approval of the Legal Recommendation. Motion carried unanimously.

21. 20150220041

Opened: 1/11/16

First Licensed: 3/10/15

Expiration: 3/9/17

Type of License: Affiliate Broker

History: 2015008101—\$1,000 Consent Order plus meeting attendance

DECISION: Consent Order in the amount of \$4,000 for four (4) violations of T.C.A. § 62-13-301 and 62-13-312(b)(14), 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 contracts, all within one hundred eighty (180) days of Respondent's execution of Consent Order. Such continuing education hours should be over and above the minimum continuing education requirements for licensure.

Motion made by Commissioner Franks and seconded by Commissioner Hills for approval of the Legal Recommendation as amended. Motion carried unanimously.

22. 20150220081

Opened: 1/11/16

First Licensed: 2/25/88

Expiration: 9/12/16

Type of License: Principal Broker

History: 2015008102—\$2,000 Consent Order plus attendance at two (2) meetings.

DECISION: Consent Order in the amount of \$4,000 for four (4) violations of T.C.A. § 62-13-302 (it is unlawful for any licensed broker to employ or compensate any person who is not a licensed broker or affiliate broker for performing any acts regulated by this chapter...) and T.C.A. § 62-13-312(b)(14), plus either attendance at one entire regularly scheduled meeting of the Commission or attend and successfully complete a six (6) hour Core course, all within one hundred eighty (180) days of Respondent's execution of Consent Order.

Motion made by Commissioner Taylor and seconded by Commissioner Hills for approval of the Legal Recommendation as amended. Motion carried unanimously.

23. 20150220151

Opened: 1/11/16

First Licensed: 7/26/77

Expiration: 10/21/16

Type of License: Principal Broker

History: No history of disciplinary action.

DECISION: Consent Order in the amount of \$1,000 for violation of T.C.A. § 62-13-302 (it is unlawful for any licensed broker to employ or compensate any person who is not a licensed broker or affiliate broker for performing any acts regulated by this chapter...) and T.C.A. § 62-13-312(b)(14), plus either attendance at one entire regularly scheduled meeting of the Commission within one hundred eighty (180) days or attend and successfully complete a six (6) hour Core course, all within one hundred eighty (180) days of Respondent's execution of Consent Order.

Motion made by Commissioner DiChiara and seconded by Commissioner Hills for approval of the Legal Recommendation as amended. Motion carried unanimously.

24. 20150222211

Opened: 1/25/16

First Licensed: 4/20/99

Expiration: 12/31/15

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 DiChiara and seconded by Commissioner Franks for approval of the Legal Recommendation. Motion carried unanimously.

25. 20150222231

Opened: 1/25/16
First Licensed: 1/13/06
Expiration: 1/12/18
Type of License: Affiliate Broker
History: 20130137171 Letter of Warning

Recommendation: Dismiss.

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

Motion made by Commissioner Franks and seconded by Commissioner Taylor for approval of the Legal Recommendation. Motion carried unanimously.

26. 20150222251

Opened: 1/25/16
First Licensed: 2/27/91
Expiration: 5/20/17
Type of License: Principal Broker
History: 2014023381—\$1,000 Consent Order plus TREC meeting; 201600397 Under review; 201600666 Under Review

Recommendation: Dismiss.

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

Motion made by Commissioner Taylor and seconded by Commissioner Franks for approval of the Legal Recommendation. Motion carried unanimously.

27. 2016005371

Opened: 2/29/16
First Licensed: 2/14/02
Expiration: 7/6/16
Type of License: Principal Broker
History: 2014021821—\$1,000 Consent Order plus meeting attendance.

Recommendation: \$1000 for violation of T.C.A. § 66-32-114(a)(refunds must be made within 30 days of the notice of cancellation), T.C.A. § 66-32-121(f)(2)(e).

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

Motion made by Commissioner Hills and seconded by Commissioner DiChiara for approval of the Legal Recommendation. Motion carried unanimously.

28. 20150222271

Opened: 1/25/16
First Licensed: 6/18/90
Expiration: 4/9/17
Type of License: Principal Broker

History: 2014011521—\$1,000 Consent Order plus TREC meeting

Recommendation: Dismiss.

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

Motion made by Commissioner Franks and seconded by Commissioner Hills for approval of the Legal Recommendation. Motion carried unanimously.

29. 20150222511

Opened: 1/26/16

First Licensed: 8/7/08

Expiration: 8/6/16

Type of License: Affiliate Broker

History: 2012008021—\$1,000 Consent Order

30. 201500222551

Opened: 1/26/16

First Licensed: 11/10/99

Expiration: 5/12/17

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 for approval of the Legal Recommendation. Motion carried unanimously.

31. 20150222191

Opened: 1/11/16

First Licensed: 10/27/95

Expiration: 3/9/17

Type of License: Principal Broker

History: 200315951 and 200316735—Closure with Letter of Warning.

Recommendation: Dismiss

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

Motion made by Commissioner Wood and seconded by Commissioner Hills for approval of the Legal Recommendation. Motion carried unanimously.

32. 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.

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 should be over and above the minimum continuing education requirements for licensure.

Motion made by Commissioner DiChiara for approval of the Legal Recommendation as amended. Motion carried unanimously.

33. 20150219291

Opened: 1/4/16

First Licensed: 1/16/13

Expiration: 1/15/17

Type of License: Principal Broker

History: No history of disciplinary action.

DECISION: Consent Order in the amount of \$3,000 for violation of T.C.A. § 62-13-312(b)(15). 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 agency and at least for hours (4) in contracts, all within one hundred eighty (180) days of Respondent's execution of Consent Order. Such continuing education hours should be over and above the minimum continuing education requirements for licensure.

Motion made by Commissioner Franks and seconded by Commissioner Wood for approval of the Legal Recommendation. Motion carried unanimously.

Meeting recessed until the following morning by Chairman John Griess at 5:02pm.



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The Tennessee Real Estate Commission held a meeting March 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. Commission members present: Commission Members were present: Chairman John Griess, Vice-Chairman Janet DiChiara, Commissioner Diane Hills, Commissioner Franks, Commissioner Bobby Wood, Commissioner Fontaine Taylor, and Commissioner Johnny Horne; absent from the meeting was Commissioner Blume and Commissioner Austin McMullen. Others present: Executive Director Malcolm Young, Assistant General Counsel Mallorie Kerby, Paralegal Jennaca Harris and Administrative Secretary Kimberly Smith.

Formal Hearing

9:00A.M. CST CALL TO ORDER

TREC v. Spencer Lindahl 12.18-135760A

A formal hearing was held before the Commission with an Administrative Law Judge presiding. The Commission considered the testimony and evidence presented.

DECISION:

Civil penalty in the amount of \$1,000 for employing or compensating an unlicensed person for performance of acts constituting brokering. Civil penalty in the amount of \$1,000 for failure to respond to the complaint in writing within ten (10) days of receiving notice. Motion carried unanimously.

Respondent is assessed all costs of hearing and investigation. Motion carried unanimously.

Respondent's principal broker license is downgraded to affiliate broker status. Motion carried by majority 4-3, with Griess, Wood and Horne in opposition.

Chairman Griess adjourned the meeting on Thursday, March 3rd, 2016 at 12:28 pm.