

STATE OF TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE TENNESSEE REAL ESTATE COMMISSION 500 JAMES ROBERTSON PARKWAY NASHVILLE, TN 37243

615-741-2273 https://www.tn.gov/commerce/regboards/trec.html

MINUTES

The Tennessee Real Estate Commission held a meeting November 13, 2019 at 8:30 a.m. CST at the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, TN 37243. The Meeting was called to order by Chairman John Griess. Chairman Griess welcomed everyone to the Board meeting.

Executive Director Caitlin Maxwell read the public disclaimer and called the roll. The following Commission Members were present: Chairman John Griess, Commissioner Geoffrey Diaz, Commissioner Fontaine Taylor, Commissioner Jon Moffett, Commissioner Bobby Wood, Commissioner Richard Douglass, Commissioner Stacie Torbett, and Commissioner Joe Begley. Vice-Chair Marcia Franks was absent. Quorum Confirmed. Others present: Executive Director, Caitlin Maxwell, Associate General Counsel Anna D. Matlock, Associate General Counsel Kelsey J. Bridges, Associate General Counsel Kristen Downey, paralegal Amanda Dean, Education Director Ross White, and TREC Staff member Aaron Smith.

The November 13, 2019 board meeting agenda was submitted for approval.

Motion to approve the agenda was made by Commissioner Diaz, and seconded by Commissioner Wood. Motion passed 7-0 with Commissioner Torbett not voting.

Minutes for the October 10, 2019 board meeting were submitted for approval.

Motion to approve the October 10, 2019 minutes was made by Commissioner Diaz, and seconded by Commissioner Taylor. Motion passed unanimously.

INFORMAL APPEARANCES

Antonio Tate appeared before the commission with his Principal Broker Gayle Brown seeking permission to obtain his Affiliate Broker's license.

Motion to approve Mr. Tate was made by Commissioner Douglass, and seconded by Commissioner Moffett. Motion passed unanimously.

Ellen Dettore appeared before the commission with his Principal Broker Kurt Steckel seeking permission to obtain her Affiliate Broker's license.

Motion to approve Ms. Dettore was made by Commissioner Diaz, and seconded by Commissioner Moffett. Motion passed unanimously.

Lawrence Dawson Jones appeared before the commission with his Principal Broker Christopher Clabough seeking permission to obtain his Timeshare Salesperson's license.

Motion to approve Mr. Jones was made by Commissioner Wood, and seconded by Commissioner Taylor. Motion passed unanimously

MEDICAL WAIVER REQUEST

Director Maxwell presented Medical Waiver request from Jeffrey Gade.

Motion to defer Mr. Gade until the December meeting allowing for the completion of the needed CE hours, was made by Commissioner Diaz, and seconded by Commissioner Begley. Motion passed unanimously.

Director Maxwell presented Medical Waiver request from Phillip Johnson.

Motion to offer Mr. Johnson, the option of a \$450.00 late penalty, in addition to the \$80.00 renewal fee reinstating his license back to retired was made by Commissioner Wood, and seconded by Commissioner Taylor. Motion passed unanimously.

EDUCATION REPORT

Education Director Ross White presented the education report to the Commission.

Motion to approve courses N1-N19 was made by Commissioner Diaz, and seconded by Commissioner Wood. Motion passed unanimously.

After further discussion a motion to Approve O16 a deferment from the October meeting was

made by Commissioner Wood, and seconded by Commissioner Moffett. Motion passed unanimously.

Education Director Ross White presented instructor biographies to the Commission.

Motion to approve instructors was made by Commissioner Diaz, and seconded by Commissioner Wood. Motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

Topics:

- **PSI** Director Maxwell informed the Commission that PSI has added the scores to the exam applications.
- <u>www.verify.tn.gov:</u> Director Maxwell informed the Commission that verify is working accordingly, and she is working with IT to enhance the system by adding "Firm Affiliation" to the search platform.
- <u>Attorney General Limited Liability Company ("LLC") Opinion:</u> Director Maxwell informed the Commission that Attorney General's Opinion will be added to the website.
- <u>Newsletter:</u> Director Maxwell informed the Commission that the newsletter has been sent to the Communications Director, and will be back on the Quarterly track going forward.
- <u>Instructors Manual:</u> Director Maxwell informed the Commission that she and Education Director E .Ross White are looking at enhancing the Instructors Manual possible using a video informative in Course format for those interested in becoming an instructor.
- <u>Staff Vacancy:</u> Director Maxwell informed the Commission of an open staff position within the Real Estate Commission, and that interviews are underway to fill the position.
- **Fee Reductions:** Director Maxwell informed the Commission that the "Fee Reduction Rules" are now effective as of November 3, 2019.

COMMISSION DISCUSSION

National Association of REALTORS® (NAR): Commissioner Wood updated the commission on the recent National Association of Realtors meeting. Noting that Vice-Chair Franks, sat on the panel representing ARELLO and the State of Tennessee discussing topics as they related to the Commissioner's and Commission's and the ties to working with the MLS. There as

continued discussion on working with the State of Tennessee's IT Department to add Firms to www.verify.tn.gov

PROPOSED RULE CHANGES:

Commissioner Wood presented proposed rule changes. Commissioner Wood proposed that business cards be removed from being considered promotional materials to advertising, thus subjecting all business cards to the advertising rules and guidelines in Tenn. Comp. R. & Regs. 1260-02-.12(1).

Motion was made by Commissioner Wood, and seconded by Commissioner Moffett to declare Business Cards will fall under the advertising rules. Motion passed unanimously.

Commissioner Wood also proposed a change to Tenn. Comp. R. & Regs. 1260-02-.12(3)(e). The proposed change would remove the requirement that licensees first obtain written authorization by the property owner via listing agreement or any other written statement in order to advertise property. The requirement would now just require authorization from the property listing agent or listing broker.

Motion was made by Commissioner Wood, and seconded by Commissioner Torbett. Motion passed unanimously.

LEGAL UPDATE

Associate General Counsel Anna D. Matlock presented a set of rules for rulemaking hearing to the Commission that would revise portions of Tenn. Comp. R. & Regs. 1260-01-.01 – Applications for Examination. The proposed rules are in response to the enactment of the *Fresh Start Act* (Tenn. Code Ann. § 62-76-101 et. seq.) that became effective on July 1, 2018. The rule removes a previous requirement that prevented individuals convicted of any felony, or a misdemeanor involving theft of money, services, or property from eligibility for examination or licensure unless two (2) years from the date of expiration of probation, parole or conviction, or the date of release from incarceration, whichever is later in time. Also, the rule change narrows the individuals required to appear before the Commission for licensure consideration due to a criminal conviction from individuals convicted of "any felony" to Class A, B, or C felonies. Motion was made by Commissioner Diaz and seconded by Commissioner Taylor. Motion voted passes unanimously by roll call vote.

"General Counsel John C. Speer came to introduce himself to the Commission. Mr. Speer became General Counsel for the Department in May of 2019."

CONSENT AGENDA & LEGAL REPORT:

CONSENT AGENDA:

The following cases were presented to the Commission via a Consent Agenda. All cases were reviewed by legal, legal has recommended dismissal. The Commission pulled the following cases for further discussion: 2019049311, 2019050431, 2019050471, 2019050451, 2019051131, 2019057221, 2019059231, and 2019059551.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaints 2019049311, seconded by Commissioner Diaz Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaints 2019050431, seconded by Commissioner Diaz Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaints 2019050471, seconded by Commissioner Diaz Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaints 2019050451, seconded by Commissioner Diaz Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaints 2019051131, seconded by Commissioner Diaz Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaints 2019057221, seconded by Commissioner Diaz Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaints 2019059231, seconded by Commissioner Diaz Motion passed unanimously.

After further discussion by the Commission, Commissioner Taylor made the motion to accept legal's recommendation to dismiss complaints 2019059551, seconded by Commissioner Wood Motion passed unanimously.

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1.) 2019045901	21.) 2019056001
2.) 2019046191	22.) 2019056241
3.) 2019046231	23.) 2019056461
4.) 2019047151	24.) 2019056701
5.) 2019047371	25.) 2019056431
6.) 2019049031	26.) 2019055281
7.) 2019049051	27.) 2019056751
8.) 2019050361	28.) 2019057171
9.) 2019050231	29.) 2019057881
10.) 2019050581	30.) 2019057321
11.) 2019051291	31.) 2019045981
12.) 2019051791	32.) 2019048991
13.) 2019052221	33.) 2019049311
14.) 2019052321	34.) 2019050431
15.) 2019052211	35.) 2019050471
16.) 2019053201	36.) 2019050451
17.)2019054151	37.) 2019051131
18.) 2019054281	38.) 2019051331
19.) 2019054891	39.) 2019051371
20.) 2019055391	40.) 2019050771

41.) 2019051601
42.) 2019051921
43.) 2019052001
44.) 2019053021
45.) 2019054211
46.) 2019054361
47.) 2019054561
48.) 2019054721
49.) 2019056301
50.) 2019056851
51.) 2019056621
52.) 2019057221
53.) 2019058471
54.) 2019058911
55.) 2019059231
56.) 2019059921

LEGAL REPORT:

KELSEY BRIDGES

1. 2019045891

Opened: 5/17/2019

First Licensed: 3/21/2013

Expires: 3/20/2021

Type of License: Affiliate Broker

History: None

Recommendation: Letter of Warning re: reasonable skill and care under T.C.A. 62-13-403.

Decision: The Commission voted to dismiss the complaint.

Motion made by Commissioner Wood, seconded by Commissioner Douglass. Motion passed unanimously.

Opened: 5/20/2019 First Licensed: 5/2/1991

Expires: 1/4/2021

Type of License: Real Estate Broker

History: None

Recommendation: Letter of instruction.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Taylor, seconded by Commissioner Diaz. Motion passed unanimously.

3. 2019052551

Opened: 6/10/2019

First Licensed: 9/24/2008

Expires: 9/23/2020

Type of License: Real Estate Firm

History: None

Recommendation: Dismiss and open a new complaint.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Douglass. Motion passed unanimously.

4. 2019055771

Opened: 6/20/2019

First Licensed: 11/14/2003

Expires: 5/26/2021

Type of License: Real Estate Broker

History: None

Recommendation: \$500 civil penalty.

Decision: The Commission voted to issue a \$1,000 civil penalty for violation of Tenn. Code Ann §62-13-404(3)(A)(ii); a \$1,000 civil penalty for violation of Tenn. Code Ann. §62-13-403(1); and a four hour contracts course to be completed within 180 days of the Consent Order above and beyond what is required for licensure.

Motion made by Commissioner Wood, seconded by Commissioner Moffett. Motion passed unanimously.

Opened: 6/25/2019

Type of License: Unlicensed

History: None

Recommendation: Letter of Warning.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Taylor. Motion passed unanimously.

6. 2019057241

Opened: 6/27/2019

Type of License: Unlicensed

History: None

Recommendation: Letter of Warning.

Decision: The Commission voted to dismiss the complaint.

Motion made by Commissioner Douglass, seconded by Commissioner Wood. Motion passed 7-1 with Commissioner Diaz voting against.

7. 2019052771

Opened: 6/10/2019

Type of License: Unlicensed

History: None

Recommendation: Dismiss.

Decision: The Commission voted to refer this complaint to the Division of Consumer Affairs.

Motion made by Commissioner Diaz, seconded by Commissioner Wood. Motion passed unanimously.

8. 2018072661

Opened: 10/15/2018 First Licensed: 1/27/1994 Expires: 12/22/2020

Type of License: Principal Broker

History: 2018 Consent Order with \$500 Civil Penalty for failure to supervise

Recommendation: Revocation for failure to respond to an audit request in violation of T.C.A. 62-13-312(d).

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Taylor. Motion passed unanimously.

9. 2018079561

Opened: 11/13/2018 First Licensed: 1/27/1994 Expires: 12/22/2020

Type of License: Principal Broker

History: 2018 Consent Order with \$500 Civil Penalty for failure to supervise

Recommendation: Revocation for failure to respond to an audit request in violation of T.C.A. 62-13-312(d).

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Taylor. Motion passed unanimously.

10. 2019004791

Opened: 1/18/2019

First Licensed: 1/27/1994 Expires: 12/22/2020

Type of License: Principal Broker

History: 2018 Consent Order with \$500 Civil Penalty for failure to supervise

Recommendation: Revocation for failure to respond to an audit request in violation of T.C.A. 62-13-312(d).

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Taylor. Motion passed unanimously.

RE-PRESENTS

11. 2019051781

Opened: 6/7/2019

First Licensed: 3/16/2006

Expires: 2/24/2020

Type of License: Principal Broker

History: None

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Wood, seconded by Commissioner Diaz. Motion passed unanimously.

12. 2018082431

Opened: 11/26/2018 First Licensed: 2/12/2013

Expires: 2/11/2021

Type of License: Affiliate Broker

History: None

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Wood, seconded by Commissioner Diaz. Motion passed unanimously.

13. 2019021331

Opened: 3/17/2019

First Licensed: 10/19/1994

Expires: 12/20/2020

Type of License: Real Estate Broker

History: None

Recommendation: Dismiss and open new complaint against the principal broker.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Douglass, seconded by Commissioner Taylor. Motion passed unanimously.

14. 2019022531

Opened: 3/21/2019

Type of License: Unlicensed

History: None

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Douglass. Motion passed unanimously.

15. 2019016611

Opened: 2/28/2019

Type of License: Unlicensed

History: None

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Moffett. Motion passed unanimously.

KRISTEN DOWNEY

16. 2019058641

Opened: 7/2/2019

First Licensed: 7/9/1991 Expires: 12/31/1994

Type of License: Affiliate Broker - Expired

History: None

Recommendation: Dismiss. Counsel conducted an independent investigation finding that the Respondent does not appear to be the owner of the property management company. In addition, the services provided by the property management company falls under the exemption identified in T.C.A \S 62-13-104(a)(1)(E). Counsel notes that Respondent is unlicensed and is under no duty to respond.

Decision: The Commission voted to issue a \$1,000 civil penalty for unlicensed activity.

Motion made by Commissioner Wood, seconded by Commissioner Taylor. Motion passed unanimously.

17. 2019045311

Opened: 5/17/2019 First Licensed: 3/3/2011 **Expires: 10/3/2020**

Type of License: Principal Broker

History: None

Recommendation: Letter of Instruction regarding Tenn. Comp. R. & Regs. 1260-02-.12(5)(c) which requires all listing information to be kept current and accurate.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Wood. Motion passed unanimously.

18. 2019046211

Opened: 5/21/2019

First Licensed: 5/19/2000

Expires: 8/6/2021

Type of License: Affiliate Broker

History: None

Recommendation: Letter of Instruction regarding Tenn. Comp. R. & Regs. 1260-02-.12(6)(b) which requires that social media advertising by licensees must include the firm name and telephone number listed on file with the commission that is no more than one click away from the viewable page.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Douglass, seconded by Commissioner Moffett. Motion passed unanimously.

19. 2019050611

Opened: 5/29/2019

Type of License: Unlicensed

History: None

Recommendation: Letter of Instruction regarding unlicensed activity.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Taylor, seconded by Commissioner Diaz. Motion passed unanimously.

20. 2019051941

Opened: 6/7/2019

First Licensed: 9/26/2018

Expires: 9/25/2020

Type of License: Affiliate Broker

History: None

Recommendation: Dismiss and refer to Tennessee Human Rights Commission.

Decision: The Commission voted to dismiss the complaint.

Motion made by Commissioner Wood, seconded by Commissioner Diaz. Motion passed unanimously.

21. 2019052511

Opened: 6/10/2019

First Licensed: 10/17/1979

Expires: 8/28/2020

Type of License: Principal Broker

History: None

Recommendation: Dismiss and refer to Home Inspector Licensing program.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Wood, seconded by Commissioner Taylor. Motion passed unanimously.

22. 2019052701

Opened: 6/10/2019

First Licensed: 620/2006

Expires: 6/19/2010

Type of License: Affiliate Broker - EXPIRED

History: None

Recommendation: Counsel recommends a civil penalty of \$1,000 for unlicensed activity in

violation of T.C.A. § 62-25-103(a) and Tenn. Comp. R. & Regs. 1260-03-.01.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Douglass. Motion passed 7-1 with Commissioner Wood voting against.

23. 2019053011

Opened: 6/12/2019

First Licensed: 12/17/2018

Expires: 12/16/2020

Type of License: Affiliate Broker

History: None

Recommendation: Letter of warning. Tenn. Comp. R. and Regs. 1260-02-.09(9) requires that earnest money shall be dispersed within twenty-one (21) calendar days from the date of receipt of a written request for disbursement. The check was dated May 24, 2019; however, it does not appear that the check was mailed until June 12, 2019. Respondent should have sent the earnest money by June 7, 2019.

Decision: The Commission voted to dismiss the complaint and open a new complaint against the principal broker.

Motion made by Commissioner Wood, seconded by Commissioner Taylor. Motion passed unanimously.

24. 2019054251

Opened: 6/17/2019 First Licensed: 4/9/2018

Expires: N/A

Type of License: Time Share Registration/Exempt

History: None

Recommendation: Letter of Instruction.

Decision: The Commission voted to issue a \$1,000 civil penalty for violation of Tenn. Code Ann. §66-32-112(9).

Motion made by Commissioner Moffett, seconded by Commissioner Taylor. Motion passed unanimously.

25. 2019056671

Opened: 6/25/2019

First Licensed: 1/19/2005

Expires: 6/15/2021

Type of License: Real Estate Firm

History: None

Recommendation: Letter of Instruction.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Douglass, seconded by Commissioner Diaz. Motion passed unanimously.

Opened: 6/26/2019 First Licensed: 6/2/1978

Expires: 4/15/2021

Type of License: Real Estate Broker

History: None

Recommendation: Letter of Instruction regarding reasonable skill and care.

Decision: The Commission voted to issue a \$1,000 civil penalty for unlicensed activity and require completion of four hours of continuing education in contracts to be completed within 180 days of the Consent Order above and beyond what is required for licensure.

Motion made by Commissioner Diaz, seconded by Commissioner Taylor. Motion passed unanimously.

27. 2019057391

Opened: 6/27/2019

First Licensed: 7/25/2005

Expires: 7/24/2021

Type of License: Affiliate Broker

History: None

Recommendation: Letter of Instruction.

Decision: The Commission voted to dismiss the complaint.

28. 2019057601

Opened: 6/28/2019

First Licensed: 12/16/2016

Expires: 12/15/2020

Type of License: Affiliate Broker

History: None

Recommendation: Letter of Instruction regarding the firm phone number.

Decision: The Commission voted to dismiss the complaint.

Motion made by Commissioner Douglass, seconded by Commissioner Taylor. Motion passed unanimously.

29, 2019058831

Opened: 7/2/2019

First Licensed: 10/23/2017

Expires: 10/22/2019

Type of License: Affiliate Broker

History: None

Recommendation: Letter of Instruction regarding the obligations of T.C.A. § 62-13-

403(7)(A).

Decision: The Commission voted to dismiss the complaint.

Motion made by Commissioner Wood, seconded by Commissioner Douglass. Motion passed unanimously.

30. 2019059551

Opened: 7/8/2019

First Licensed: 8/30/2004

Expires: 3/25/2020

Type of License: Principal Broker

History: 2006 Consent Order, 2014 Consent Order

Recommendation: Dismiss.

Decision: The Commission voted to assess a \$1,000 civil penalty and 4 hours of continuing education in contracts within 180 days, above and beyond what is required for licensure.

Motion made by Commissioner Taylor, seconded by Commissioner Wood. Motion passed unanimously.

Re-Presents

31. 2019038301

Opened: 5/1/2019

First Licensed: 5/6/2016

Expires: 5/5/2020

Type of License: Affiliate Broker

History: None

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Taylor. Motion passed 7-0 Commissioner Wood abstaining.

Opened: 4/23/2019

Type of License: Unlicensed

History: None

Recommendation: Counsel recommends a One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity.

Decision: The Commission voted to accept Counsel's recommendation.

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Moffett. Motion passed unanimously.

33. 2019044931

Opened: 5/15/2019 First Licensed: 2/4/2005 Expires: 5/31/2021

Type of License: Principal Broker

History: None

Recommendation: Counsel reinstates the recommendation to dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Taylor. Motion passed unanimously.

34. 2019037951

Opened: 4/30/2019

First Licensed: 8/19/2009

Expires: 8/18/2020

Type of License: Time Share Registration

History: None

New Recommendation: Counsel recommends dismissal.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Taylor, seconded by Commissioner Moffett. Motion passed unanimously.

ANNA MATLOCK

Re-Present

35. 2019031651

Opened: 4/12/2019

Type of License: Unlicensed

History: None

New Recommendation: Letter of Warning.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Taylor, seconded by Commissioner Wood. Motion passed unanimously.

36. 20150224121 Opened: 2/9/16

First Licensed: 7/2/97 Expiration: 1/6/18

Type of License: Principal Broker

History: No history of disciplinary action

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Commissioner Moffett. Motion passed unanimously.

Chairman Griess adjourned the meeting at 1:53 P.M.