

TENNESSEE REAL ESTATE COMMISSION

Volume 54

NEWS-JOURNAL

Summer 2014

Fond Farewell to Commissioner



William "Bear" Stephenson

With our warm welcome to Commissioner Diane Hills, TREC bids a fond farewell to Commissioner William "Bear" Stephenson, who loyally served on the Commission for 10 years. Bear was first appointed to the Commission July 1, 2004 and was reappointed for his second and final 5 year term July 1, 2009. Bear served as the Vice-Chairman of the Commission from December, 2005 through June, 2009 and July, 2011 through June, 2012, at which time Bear was elected Chairman of the Commission, a position he held until his term expired in July, 2014.

Bear's optimism and enthusiasm will be greatly missed by the attendees and his fellow Commissioners.

TENNESSEE REAL ESTATE COMMISSION

Newest Commissioner



Diane Hills Appointed

TREC began August, 2014 welcoming a newly appointed Commissioner. Diane Hills of Kingsport was appointed by Governor Haslam to serve as one of the East Tennessee industry Commissioners. Diane M.K. Hills is the owner, broker of Southern Dwellings, Real Estate firm in Kingsport, TN. She is a member of Northeast TN Association of Realtors and served as President in 2000 and Realtor of the Year for 1999 and 2003. In 2013, Diane was awarded Tennessee Assoc. of Realtors Educator of the Year and awarded 2013 Tennessee Association of Realtors President Award. She has also served as TNVA Regional MLS President, Tennessee Real Estate Education Trustee, and as a National Assoc. of Realtors and TN Assoc. of Realtors Director.

RENEW E&O

RENEWAL OR SUSPENSION and REVOCATION?

The RICE E&O insurance policy expires 12/31/2014! Unless the TREC records reflect that your license is in an inactive or retired status, you must renew your E&O. In order to avoid having your license SUSPENDED, you must provide proof of E&O prior to the date of expiration of your policy. TREC is required by statute to immediately SUSPEND the license of those failing to provide proof of E&O. You cannot work on a suspended license. The statute and the rule are very specific and do not allow for any time variance. Once suspended, if you show proof of E&O within the first 30 days following suspension, your license will be reinstated without further penalty. After the initial 30 days, Penalty Fees attach. Once the penalty fees attach, they must be paid in full before you can ever get your license removed from SUSPENSION or REVOCATION. The penalty fees range from \$200.00 to \$1,200.00 depending on the length of time before proof of E&O is submitted. Licenses suspended for E&O for more than one year will be REVOKED! In order for the license to be reissued, you must: retest and reapply, including the payment of all fees for these processes; pay the penalty fees in full; and meet all current requirements for licensure. Over 500 licensees have had their licenses revoked for failure to provide proof of E&O. SUSPENSION and REVOCATION can easily be avoided—PLEASE GO TO THE TREC WEBSITE and READ TCA 62-13-112 and RULE 1260-01-.16.

PRINCIPAL BROKERS--TAKE NOTE!! YOU WILL BE SENT A CONSENT ORDER FOR FAILURE TO SUPERVISE IF YOU HAVE AFFILIATED LICENSEES WHO HAVE NOT MAINTAINED and PROVIDED PROOF OF E&O. You will be assessed civil penalties ranging from \$200.00 to 1,000.00 and your license could be revoked or suspended. PLEASE MAKE SURE THAT ALL LICENSEES AFFILIATED WITH YOUR FRIM HAVE E&O!! Please follow the link set forth above to read RULE 1260-01-.16. and TCA 62-13-112.

IMPORTANT---**THE COMMISSION CANNOT WAIVE THE PENALTY FEES**—the Statute and Rule **DO NOT ALLOW WAIVER of PENALTY FEES FOR ANY REASON** even if a Formal Hearing is requested and held.

TREC STATISTICS

Number of Licensees as of 8/31/2014

Type	Active	Inactive	Retired	Broker Release	Grand Total
People	25,025	764	7,556	350	33,695
Firms	3,891		202		4,093
Totals	28,916	764	7,758	355	37,788
*Broker Released licensees are those usually in the process of transferring or going inactive/retired.					
Timeshare Registrations Active			61		
Licensed Acquisitions Agent Active			41		
Suspension Status			53		
Vacation Lodging Service Active			126		

— DISCIPLINARY ACTION REPORT —

The list of all disciplinary actions taken by the Commission can be found online under the Disciplinary Action Report Link. This link is found under the Quick Links section on the TREC Website www.tn.gov/regboards/trec. The list is updated monthly and reflects the regulatory boards alphabetically.

[August Revocations and Suspensions](#)

2015 TREC

Commission Meeting

Schedule

Date	Time	Location
1-7-15 - 1-8-15	9am	Davy Crockett Tower, Room 1-A
2-4-15 - 2-5-15	9am	Davy Crockett Tower, Room 1-A
3-4-15 - 3-5-15	9am	Davy Crockett Tower, Room 1-A
4-1-15 - 4-2-15	9am	Davy Crockett Tower, Room 1-A
5-7-15 - 5-8-15	9am	West, TN
6-3-15 - 6-4-15	9am	Davy Crockett Tower, Room 1-A
7-1-15 - 7-2-15	9am	Davy Crockett, Tower, Room 1-A
8-5-14 - 8-6-15	9am	Davy Crockett, Tower, Room 1-A
9-2-15 - 9-3-15	9am	Davy Crockett, Tower, Room 1-A
10-1-15 - 10-2-15	9am	East, TN
11-4-15 - 11-5-15	9am	Davy Crockett, Tower, Room 1-A
12-2-15 - 12-3-15	9am	Davy Crockett, Tower, Room 1-A

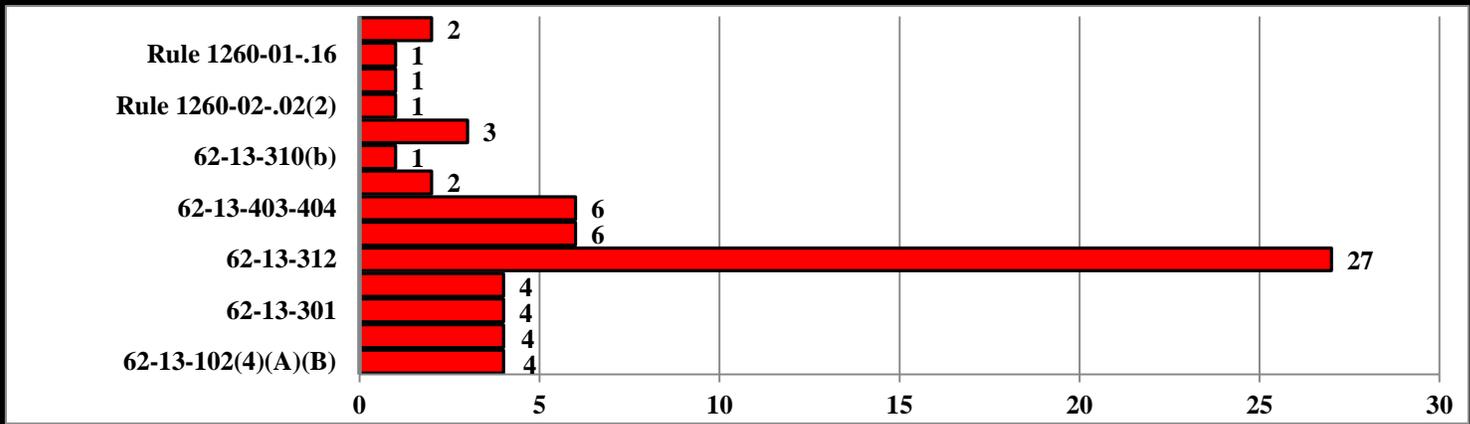
You are encouraged to attend to not only learn how business of TREC is handled but to also receive (8) eight hours of CE at no charge. If you are interested in attending or would like more information, contact Betsy Bowman at betsy.bowman@tn.gov

Please continue to check TREC Homepage for any adjustments to this schedule. All meetings begin at 9:00 a.m. at location's local time

TENNESSEE REAL ESTATE
COMMISSION
DAVY CROCKETT, TOWER, ROOM 1-A
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN. 37243

Complaints-Graph-Penalties

Statue-Rules July – August 2014 Cases



TCA

of Case Violations

62-13-102(4)(A)(B) 4) (A) "Broker" means any person who, for a fee, commission, finder's fee or any other valuable consideration or with the intent or expectation of receiving a fee, commission, finder's fee or any other valuable consideration from another, solicits, negotiates or attempts to solicit or negotiate the listing, sale, purchase, exchange, lease or option to buy, sell, rent or exchange for any real estate or of the improvements on the real estate or any time-share interval as defined in the Tennessee Time-Share Act, compiled in title 66, chapter 32, part 1, collects rents or attempts to collect rents, auctions or offers to auction or who advertises or holds out as engaged in any of the foregoing; 4

(B) "Broker" also includes any person employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a salary, fee, commission or any other valuable consideration, to sell the real estate or any part of the real estate, in lots or parcels or other disposition of the real estate. It also includes any person who engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the person undertakes primarily to promote the sale of real estate either through its listing in a publication issued primarily for that purpose or for referral of information concerning the real estate to brokers, or both;

62-13-103 Broker or affiliate identified by single act. 4

62-13-301 It is unlawful for any person, directly or indirectly, to engage in or conduct, to advertise or claim to be engaging in or conducting the business, or acting in the capacity of a real estate broker, affiliate broker, time-share salesperson or acquisition agent, as defined in § 62-13-102, within this state, without first obtaining a license as broker, affiliate broker, time-share salesperson or acquisition agent, as provided in this chapter, unless exempted from obtaining a license under § 62-13-104. No person shall be permitted to hold, at the same time, an active time-share salesperson license and an active acquisition agent license. 4

62-13-309 (a) (1) (A) Each office shall have a real estate firm license, a principal broker and a fixed location with adequate facilities for affiliated licensees, located to conform with zoning laws and ordinances. 4

(e) No more than one (1) license shall be issued to any broker or affiliate broker to be in effect at one (1) time.

62-13-312 Discipline -- Refusal, revocation or suspension of license -- Downgrading of licenses -- Automatic revocation. 27

62-13-312(1) (1) Making any substantial and willful misrepresentation;

62-13-312(5) (5) Failing, within a reasonable time, to account for or to remit any moneys coming into the licensee's possession that belong to others;

62-13-312(b) (4) **(4)** Misleading or untruthful advertising, including use of the term "realtor" by a person not authorized to do so, or using any other trade name, insignia or membership in any real estate association or organization of which the licensee is not a member;

(12) Being convicted in a court of competent jurisdiction of this or any other state or federal court of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud or any crime or any similar offense or offenses, or pleading guilty or nolo contendere to any such offense or offenses;

62-13-312(b) (14) **(14)** Violating any provision of this chapter, any rule duly promulgated and adopted under this chapter or the terms of any lawful order entered by the commission;

62-13-312(b) (15) **(15)** In the case of a licensee, failing to exercise adequate supervision over the activities of any licensed affiliate brokers within the scope of this chapter;

62-13-312(b) (16) **(16)** In the case of a licensee, failing within a reasonable time to complete administrative measures that may be required by the commission upon the transfer or termination of any affiliate broker employed by the broker;

62-13-312(b) (18) **(18)** Failing to disclose to an owner the licensee's intention or true position if the licensee, directly or indirectly through a third party, purchases for itself or acquires or intends to acquire any interest in or any option to purchase property that has been listed with the licensee's office to sell or lease;

62-13-312(b) (20) **(20)** Any conduct, whether of the same or a different character from that specified in this subsection (b), that constitutes improper, fraudulent or dishonest dealing; or

62-13-313(a)(2) **(2)** The accused applicant or licensee shall, within ten (10) days, file with the commission the applicant's or licensee's answer to the complaint, a copy of which shall be transmitted to the complainant. 6

62-13-403-404 **(1)** Diligently exercise reasonable skill and care in providing services to all parties to the transaction; 6

(2) Disclose to each party to the transaction any adverse facts of which the licensee has actual notice or knowledge;

(7) (A) Not engage in self-dealing nor act on behalf of licensee's immediate family or on behalf of any other individual, organization or business entity in which the licensee has a personal interest without prior disclosure of the interest and the timely written consent of all parties to the transaction; and

(2) Be loyal to the interests of the client. A licensee must place the interests of the client before all others in negotiation of a transaction and in other activities, except where the loyalty duty would violate licensee's duties to a customer under § 62-13-402 or a licensee's duties to another client in a dual agency; and

Vacation Lodging Service

62-13-104 Licensees may not post signs on any property advertising themselves as real estate agents unless the firm's name appears thereon in letters the same size or larger than those spelling out the name of the licensee. 2

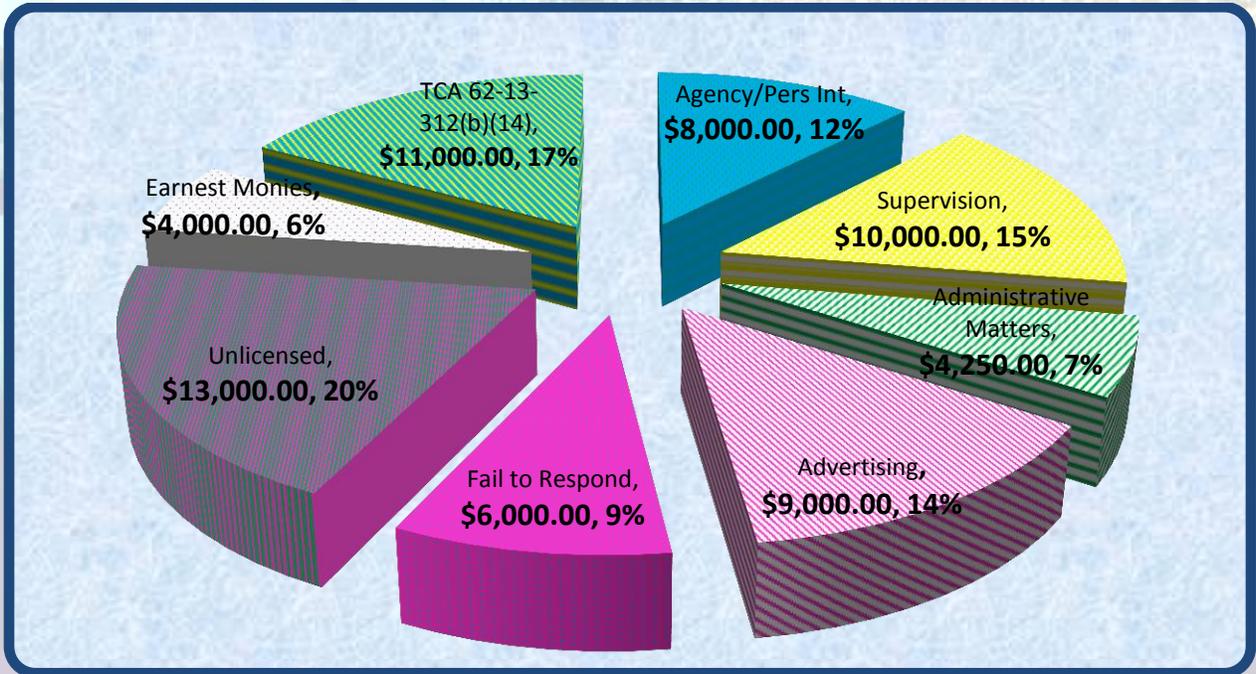
62-13-310(b)	Licensees may not post signs on any property advertising themselves as real estate agents unless the firm's name appears thereon in letters the same size or larger than those spelling out the name of the licensee.	1
		3
Rule 1260-02-.02(2)	<p>administrative measures for either change of affiliation or retirement. The licensee shall not engage in any activities defined in §62-13-102 until a change of affiliation is received and processed by the Commission.</p> <p>(1) No broker or affiliate broker shall, either directly or indirectly through a third party, purchase for himself or attempt to purchase or acquire any interest in or option to purchase property listed with him or with his company, or property regarding which he or his company has been approached by the owner to act as broker, without first making a full disclosure of his true position to the owner of the property or to any prospective purchaser for which he has acted for as a client or customer. After acquiring any such personal interest, either directly or indirectly, the broker or affiliate broker shall make a full disclosure of his true position to prospective purchasers who tender offers to buy the property.</p>	1
Rule 1260-02-.11(1)		1
Rule 1260-01-.16	LAPSED ERRORS AND OMISSIONS INSURANCE	1
Rule 1260-02-.09	Deposits and Earnest Money	2
	TOTAL ALL	66

JULY – AUGUST 2014

COMPLAINT DECISION PENALTY

AMOUNTS AUTHORIZED

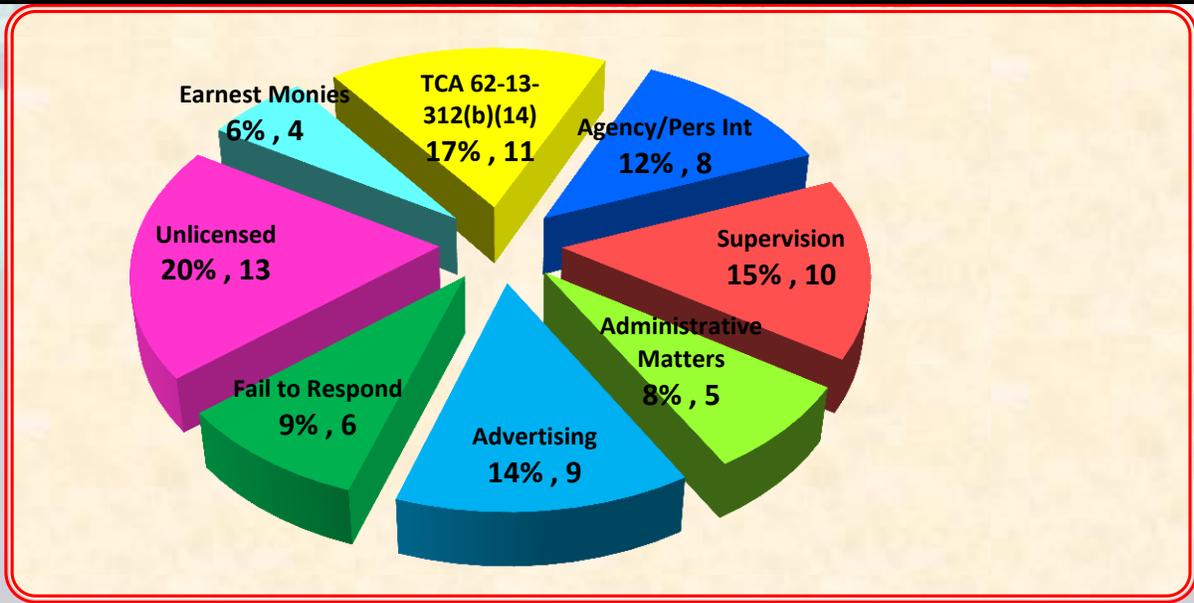
Violation	\$	%	No.	%
Agency/Pers Int	\$8,000.00	12%	8	12%
Supervision	\$10,000.00	15%	10	15%
Administrative Matters	\$4,250.00	7%	5	8%
Advertising	\$9,000.00	14%	9	14%
Fail to Respond	\$6,000.00	9%	6	9%
Unlicensed	\$13,000.00	20%	13	20%
Earnest Monies	\$4,000.00	6%	4	6%
TCA 62-13-312(b)(14)	\$11,000.00	17%	11	17%
Total	\$65,250.00	100%	66	100%



JULY – AUGUST 2014

VIOLATIONS

Violation	No.	%
Agency/Pers Int	8	12%
Supervision	10	15%
Administrative Matters	5	8%
Advertising	9	14%
Fail to Respond	6	9%
Unlicensed	13	20%
Earnest Monies	4	6%
TCA 62-13-312(b)(14)	11	17%
Total	66	100%





- TREC only recognizes an **Active** and **Retired Status**. Broker Release and Inactive are nonrenewable license statuses.

How do I retire my license?

In order to retire your license you must complete a [TREC Form 1](#) and submit it to TREC along with any fees. You must have completed all educational obligations prior to retiring your license. While in retirement, you cannot participate in any real estate transactions; however, you may receive commissions from transactions completed prior to retirement. **YOU MUST CONTINUE TO RENEW YOUR LICENSE AND PAY THE RENEWAL FEE.**

- Notification Options Are Now Available! [Click here](#)

Significant Changes Impacting Your License - Changes to Policies

New or Amended Statutes - New or Updated Rules

Proposed Rule Changes Rulemaking Hearings Up Coming RULEMAKING HEARING Nov. 5th, 2014 9:30am, cst in Conference Room 1-A, 500 James Robertson Parkway, Nashville, TN. The proposed rules to be considered include new rules to Chapter 1260-01 as well as both new rules and amendments to rules within Chapter 1260-02. The Commission encourages licensees to review these rules and submit written comments and/or attend the public hearing and speak directly to the Commission.

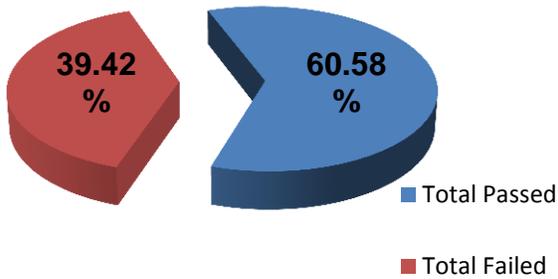
Upcoming Commission Board Meeting October 9th 2014 9am

Hamilton County Courthouse, Room 402 625 Georgia Avenue, Chattanooga, TN 37402

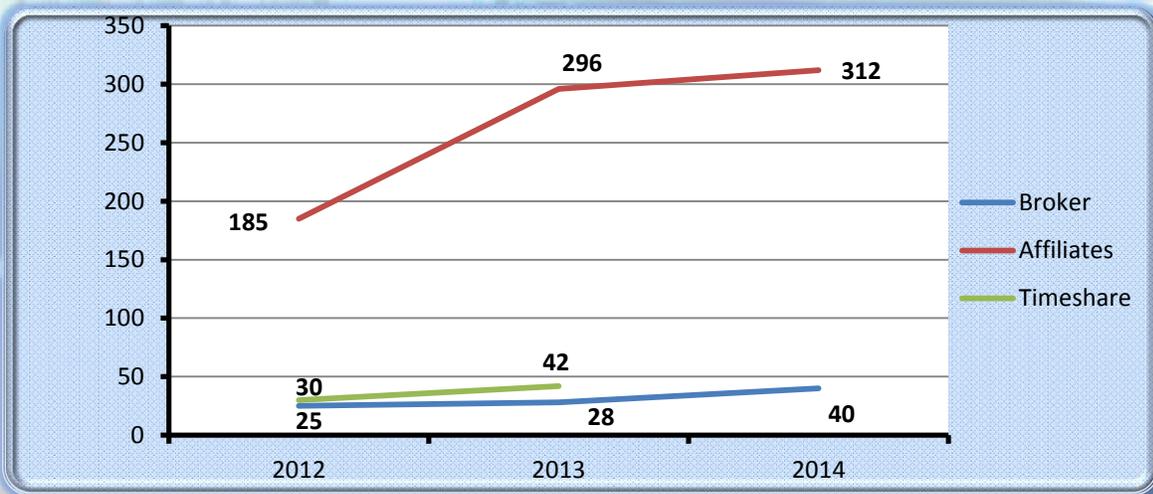
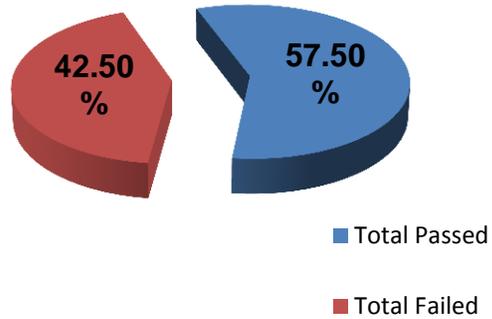
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Testing Statistics

Affiliate Broker Exam Pass Rate August 2014



Broker Exam Pass Rate August 2014



TREC

CORE ALERT!

Starting 1/1/2015, the NEW 2015-2016 CORE will be the 6 hour CORE course which must be completed in order to fulfill your 16 hour CE requirement and renew your license. The 2013-2014 TREC CORE course EXPIRES 12/31/2014 and is not approved to be offered after that date. Please check the education link on the TREC website later this year to see which providers offer approved 2-05-2016 TREC CORE courses.

Remember—All courses must be preapproved by the Commission in order for you to receive credit. No Preapproval=No Course Credit—there is NO after the fact credit for courses.

TREC CONTACT INFORMATION

(615) 741-2273 or (800) 342-4031

www.tn.gov/regboards/trec/

PERSONNEL & AREAS OF RESPONSIBILITY

Administration

Executive Director:

Eve Maxwell

Education Director:

Legal:

Julie Cropp

Administrative Assistants

Betsy Bowman

Kimberly Smith

Office Manager:

Dennis Hodges

Board Meeting:

Kimberly Smith

Complaints:

Amy Mayfield

Conell House

Auditor

Ahmad Lewis

Licensing:

Kim Dorris

Gil Dyer

Rachel Fowler

Karen Patton

Antoin Philip

Richard Thomas

Reception & Records

Ken Spurlock

Linda Wolfert

Errors & Omission Insurance

Contractor for 2014-2015

Rice Insurance Svc. Co., LLC

Phone: 888-248-2444

Fax: 502 897-7174

Web: www.risceo.com

Department of Commerce & Insurance

Commissioner: Julie Mix McPeak

Deputy Commissioner: Bill Giannini

Members of the Commission:

John Griess, Chairman

Clinton, TN

Janet DiChiara, Vice Chairman

Jackson, TN

Grover Collins

Lewisburg, TN

Wendell Alexander

David Flitcroft

Knoxville, TN

Austin McMullen

Gary Blume

Germantown, TN

Marcia Franks

Franklin, TN

Diane Hills

Kingsport, TN

