

**TENNESSEE REAL ESTATE COMMISSION MINUTES**  
**August 4 – 5, 2010**

The Tennessee Real Estate Commission convened on August 4, 2010 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 Isaac Northern, Vice-Chairman Allen Woods, Commissioner Grover Collins, Commissioner William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner Wendell Alexander, Commissioner Michelle Haynes and Commissioner David Flitcroft. Commissioner Carol Tate was absent. Others Present: Eve Maxwell, Executive Director, Steve McDonald, Education 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 August 2010 Commission meeting. **Vice-Chairman Woods made a motion to adopt the agenda for the August 2010 meeting; seconded by Commissioner Collins; unanimous votes; motion carried.**

The next order of business was the approval of the minutes from the July 2010 meeting (**Exhibit 2**). **Commissioner Joh made a motion to approve the July 2010 meeting minutes; seconded by Vice-Chairman Woods; vote: 6 yes, 0 no, Commissioner Flitcroft abstained as he was absent from the July meeting; motion carried.**

**Vacation Lodging Services Proposed Rule Discussion**

On August 3, 2010, a subcommittee of the Commission met to discuss changes in Vacation Lodging Services licensing law. The subcommittee was chaired by Vice-Chairman Woods and also included Commissioner Alexander and Commissioner Flitcroft, members of the VLS industry and TREC Staff. The subcommittee reported to the full Commission on the discussions held and progress made at the meeting the day prior. The following guests were present to address the full Commission: Brad Ivens of Eagle Property Management, Ed Jordan of Volunteer Cabin Rentals and Chuck McCarter of Oak Haven Resort. These three guests were, however, appearing in their capacity as members of the Board of Directors of the Smoky Mountains Vacation Lodging Services Association. Also present were Mike Loy and Bill Stewart, Auditors for TREC. The discussion began with Chairman Northern recognizing the guests and explaining the purpose of the subcommittee. He then asked Vice-Chairman Woods to explain the why the committee was formed. Vice-Chairman Woods (Chair of the subcommittee) explained that the subcommittee was formed to discuss potential rules to regulate the VLS industry. The Commission members tasked the Staff to create a more formal set of proposed rules for the entire Commission to evaluate. He explained that one of the primary changes in the law is that the Designated Agent will have to be licensed by TREC beginning July 1, 2011. Vice-Chairman Woods advised that at the meeting there was discussion regarding potential new rules that address such matters as the qualifications for instructors, location of offices and advertising requirements. Commissioner Flitcroft expressed that he is concerned about advertising, the possibility of the Designated Agent paying into the Education and Recovery Fund and requiring by

law a Bond. Commissioner Alexander expressed that he is also concerned about the advertising and stated that the Designated Agent's name should be on the face of any advertising. He also observed that by licensing the Designated Agent it would offer an excellent opportunity for TREC to track all of the VLS companies. Ms. Maxwell gave the Commission and attendees a brief overview of the Vacation Lodging Industry. She advised that there are currently 126 active VLS companies operating in East Tennessee and mostly in Sevier County. She explained that the VLS industry is exempt from the Broker Act and will continue to be so. She advised that the new laws would provide additional requirements and ensure that the Designated Agent be licensed. She explained it also requires that the Designated Agent have a substantial relationship to the firm itself such as upper level management, owner or partner. She spoke of how the new laws will make it easier for TREC to track VLS licensees and enforce rules. She advised that the Commission has an opportunity to create new rules to clarify and enforce the new statute. Brad Ivens told the Commission that the VLS Association represents some 9,000 members of the 12,500 VLS in operation and he advised that some members went to the legislature to help give TREC some teeth by giving them the power to pursue action against someone specific in a higher position. There was some discussion regarding the Designated Agents contributing to the Education and Recovery Fund and if that happens that fund should be available to those who have been harmed by the VLS industry. It was also discussed that a Designated Agent is not required to carry E&O insurance and TREC cannot require they have E&O insurance. Therefore, the possibility of requiring a bond was considered. Ms. Maxwell advised that if a Designated Agent leaves the firm, TREC must be notified within 10 days and a new Designated Agent must be in place within 60 days. She made the Commission aware that members of the industry are working with others with expertise in real estate and Vacation Lodging Services to write an eight hour pre-licensing course that will be required of all Designated Agents. Mr. Ivens explained that he will forward the content of the course along to Steve McDonald, TREC's Education Director and he will bring it before the Board for review. Commissioner Alexander asked that Mike Loy, Auditor, be included in the VLS subcommittee to help work out the details and specifics of education since he is out in the field and encounters the big issues. To that end, **Commissioner Alexander made a motion that Mike Loy be permitted to travel to Nashville anytime the VLS subcommittee meets; seconded by Commissioner Flitcroft; unanimous vote; motion** carried. Mr. Ivens offered some financial statistics to those present. He reported that in Tennessee in 2009, the Gross receipts for VLS are \$265,000,000 and state taxes collected are approximately \$25,900,000. He went on to report that Local City Lodging taxes have generated an estimated \$8,000,000 and Gross Receipt Taxes in Pigeon Forge and Gatlinburg for condo and cabin rentals are an estimated \$1,400,000 and therefore the VLS industry in total has contributed approximately \$35,450,000 in taxes to Tennessee. Mr. Ivens explained that a down payment is usually in the ballpark of 50% of the rental amount. Chairman Northern expressed concern that there is no escrow account in place. Vice-Chairman Woods advised the statute does not give TREC the authority to make rules requiring an escrow account and that bonding would require a change in statute. Since the October meeting is in Sevierville, Vice-Chairman Woods invited the industry members to attend and give the Commission feedback for their association members' views on requiring bonds. Auditors Mike Loy and Bill Stewart were asked for their input. They both believe that change will have to happen in phases beginning with accountability by licensing the Designated Agent. Mr. McCarter thanked

the Commission for the opportunity to establish a niche in TREC laws and rules since the VLS industry is such a profitable industry in Tennessee. Commissioner Collins asked who inspects the VLS properties. The industry members advised that the City of Sevierville is currently attempting to establish a standard code for inspection. Ms. Maxwell thanked all the members of the subcommittee and Mr. Ivens, McCarter and Jordan and this concluded the discussion of Vacation Lodging Services.

### **AFFILIATE BROKER APPLICANT INFORMAL CONFERENCE**

**William D. Lewis, applicant, appeared with his potential Principal Broker LaCrystal "Crystal" Gaddes** to request he be approved for an Affiliate Broker license. Mr. Lewis disclosed to the Commission a conviction of Conspiracy to Distribute and Possess with Intent to Distribute Cocaine or Cocaine Base in 1999. **Commissioner Collins made a motion to approve Mr. Lewis' request to be approved for an affiliate broker license; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**

### **EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR**

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

- **Complaint Statistics Report (Exhibit 3)** – Ms. Maxwell presented licensing statistics to the Commission. As of July 30, 2010, TREC had a total of 372 open complaints. Of those 372 open complaints, 331 were Errors & Omissions insurance complaints. There were 23 new complaints in July 2010. There are 371 complaints in the legal department and 1 open complaint in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2010-2011 is 20. Total Civil Penalties paid in July 2010 were \$19,030.00. Ms. Maxwell advised the Commission that the first group of Errors & Omissions insurance hearings will be held August 24, 25 & 26.
- **Licensing Statistics (Exhibit 4)** – Ms. Maxwell presented licensing statistics for the month of July 2010. As of July 30, 2010, there were 27,044 active licensees, 1,430 inactive licensees and 10,543 retired licensees. There were 4,408 active firms and 360 retired firms. There were 212 new applications approved in July 2010. Further, she presented a comparison of total licensees for individuals (active, retired and inactive) and firms in 2005, 2006, 2007, 2008, 2009 and 2010. She also presented the number of licenses approved in 2006, 2007, 2008, 2009 and 2010 and the average number of licensees (individuals) issued per month for each year from 2000 - 2010. Mr. McDonald, Education Director, presented bar graphs reflecting trends in test taking. The graphs were comprised of test taking statistics for 2007, 2008, 2009 and 2010 and the year to date testing totals and trends for Affiliate Brokers, Brokers, Timeshare Salesperson and Acquisition Agents.

### **Errors & Omissions Insurance Issues and Proposed Solutions**

Ms. Maxwell addressed the Commission regarding a plan of action regarding the upcoming renewal of Errors & Omissions insurance on 12/31/2010. At a previous meeting, the Commission asked Ms. Maxwell to prepare some ideas so when E&O is due for renewal this year TREC may not have as many licensees purchasing their policies

late and being assessed penalties and/or holding formal hearings. In addition to offering the Staff's proposed plan she also presented to the Commission a report comparing Tennessee to all other states that require E&O insurance. She reported on each of the 13 states' coverage limits, premiums and enforcement in regards to E&O. In her discussion with the Commission and also in a written summary, Ms. Maxwell identified issues/problems with Errors & Omissions compliance. She summarized the statistics for uninsured licensees from January 5, 2009 until present and explained the actions that TREC and TREC's Legal Staff have taken over the course of the almost two year period to get licensees to comply with the E&O requirement and payment of penalties. She advised that during 2010, the uninsured number has averaged about 113. She went on to discuss that to achieve this level of compliance, TREC (including the legal department) has sent out approximately 10 separate mailings and that the process has been costly and many pieces of mail whether addressed to the home and/or to the office are returned to sender. She advised that while there was a response to each mailing, the heaviest response came from the initial mailing and from the most recent mailing from the legal department which contained the Summons and Statement of Charges. She detailed some of the various reasons licensees failed to comply such as some who enrolled online at risceo.com inadvertently selected the wrong inception date or in the case of licensees with conformity policies obtaining a two year E&O policy is sometimes problematic. She advised that licensees in other mandated states cannot always purchase the conformity policy and the licensee ends up having to purchase the two year Tennessee policy, in addition to the policy which RISC offers in their state. Ms. Maxwell also counseled that Rice Insurance will backdate a policy for up to 90 days so those licensees will have no lapse in the computer system yet the licensee purchased the policy late and worked without insurance for a period of time. She informed the Commission that from 1/1/2009 to 8/1/2010, there have been approximately 40 licenses revoked (voluntarily or by the Commission) and \$216,500.00 collected in penalties.

Ms. Maxwell offered some proposed possible solution to administratively handle the upcoming renewal of Errors & Omissions insurance. Following are some guidelines and actions Ms. Maxwell proposed to the Commission.

- The Commission adopts a policy pertaining to the penalties for failure to get E&O at the latest by the October, 2010 meeting and clarify that the penalty is based upon actual date of purchase.
- Around October 1, 2010, TREC sends out a letter to all licensees advising them that their RISC E & O policy expires 12/31/2010 and that they must renew this policy or get a new policy in place prior to 12/31/2010. Staff envisions a very short, one sentence letter in large, bold capital letters.
- At or about this same time (October), RISC will send out their renewal notices to licensees (perhaps with penalty provisions enclosed).
- Put a notice on the website in bold red letters advising all who visit the website of mandatory requirement to get E & O policy in place prior to 12/31/2010.
- The penalties may be put on the TREC website and distributed at seminars and to local associations for further distribution to their members.
- Put notices in the TREC News Journal, ask TAR to place notices in their publications, local associations may put notices in their publications and try to post notice in other materials which will be distributed to licensees.

- Sometime in late November-early December, 2010, have RISC send an email blast to all licensees who have not renewed their insurance. This date will probably be in part dependent upon the number that have renewed as the year end approaches (or another benchmark date), but in time for licensees to receive and renew before expiration of their policy.
- Around Dec. 15, 2010, TREC and RISC could look at the list of uninsured licensees and determine what might be the most effective course of action to get the licensees to renew prior to 12/31/2010.
- Key will be taking some immediate action in 2011 against licensees who do not get E & O in a timely manner.
- Perhaps the Commission would reconsider assessment of penalties if the licensee purchases E & O within the time frame that RISC automatically backdates. RISC automatically backdates if a licensee has had continuous coverage and executes a Reinstatement Form that certifies that they have no knowledge of a pending claim. For state mandated plans, this has been 90 days from the expiry date of the policy.
- Consider allowing a one year E & O policy. There are states that have a longer underlying state contract with RISC, but the licensee policy term is one year—it does not run with the underlying state policy. This would drop the price and if individuals are thinking of retiring or terminating, then they would not have paid for a 2 year period with no prorated refund.
- Have a fine structure established for a 90 day period. Once a licensee's penalty is determined, TREC will send a notice (either letter or Agreed Citation) informing the licensee of the penalty amount.
- Put the licensee in Problem status and TREC will complete no transactions on the file at all until the penalty is paid in full. TREC will complete a broker release if the licensee's Principal Broker so requests.
- If the licensee does not get E & O by the 91<sup>st</sup> day, then TREC can notify the licensee and immediately begin the process to schedule formal hearings for revocation.
- If a Principal Broker attempts to transfer a licensee into their firm without E & O insurance, that Principal Broker will be fined \$50.00.
- TREC is going to work with RISC to supply them with a database that will contain names of all licensees, their home addresses, their firm addresses, their Principal Broker's name, their current insurance and its expiration date including policies not issued by Rice. TREC could then have this list updated with Rice monthly or bi-monthly, so that RISC can go through each month and update their database and contact licensees whose are E & O is expiring.

Commissioner Flitcroft suggested a subcommittee form to discuss the E&O issues and possible solutions. Chairman Northern recognized Ms. Kathryn Wiseman, Chief Legal Counsel who was present for the discussion of E&O and asked her for her input. Ms. Wiseman suggested that the Commission could formulate a plan that the administration/staff can use to go forward and handle any E&O delinquencies efficiently without using an enormous amount of time and resources. At the request of the Commission, Ms. Wiseman will participate in the subcommittee meeting to be held at the next TREC meeting in Jackson, Tennessee. The Commission agreed Commissioner Flitcroft would chair the subcommittee and Commissioners Alexander, Stephenson and

Joh along with Ms. Maxwell and Ms. Robyn Ryan, Assistant General Counsel for TREC would meet after the September 1, 2010 meeting in Jackson recesses for the day. The meeting will be held in a smaller, adjacent room to the regular meeting space and is open to the public. Ms. Wiseman counseled the Commission that proposed legislation must be submitted to the Administration by September 17, 2010 so they will want to establish an outline of any proposed legislation they may want considered. It was the consensus of the Commission that the discussion would be a part of the September agenda.

Pug Scoville, Director of Communications & Education for the Tennessee Association of REALTORS® addressed the Commission regarding a Commercial CORE course. Mr. Scoville is requesting he be allowed to establish a six hour Commercial Core Course to offer members who work primarily in the commercial side of real estate. Chairman Northern advised that Commercial Real Estate includes several groups of licensees including property management, commercial, industrial and land and supported a course that is tailored to the Commercial licensee's needs. It was discussed that licensees can take either the Residential Core or the Commercial Core and get credit for TREC's required Core class but if they take both then one cannot count towards the required 12 hours of electives. **Commissioner Alexander made a motion to giving the Commissions blessing to Mr. Scoville to pursue teaching not only a residential Core Course but also a Commercial Core Course; seconded by Commissioner Joh; unanimous vote; motion carried.**

**Commissioner Stephenson made a motion that the Commission recess for lunch and take up the remainder of the morning business from the agenda after they return; seconded by Commissioner Alexander; unanimous vote; motion carried.**

Chairman Northern recessed the meeting for lunch at 11:36 a.m. and reconvened at 1:26 p.m.

#### **APPLICANT CONFERENCE**

Principal Broker, Donald C. Holt licensee # 318946, appeared before the Commission to request a waiver of the 50 mile rule to allow Brenda N. Howes, licensee, 223098, to affiliate with his firm. **Commissioner Collins made a motion to approve Mr. Holt's request; seconded by Commissioner Flitcroft; vote: 6 yes, 1 no (Commissioner Joh voted no); motion carried.**

#### **APPLICANT CONFERENCE**

Principal Broker, James P. Spellman, 273727 appeared before the Commission to request a waiver of the 50 mile rule so Steve Krokowski, applicant, may affiliate with his firm. **Commissioner Alexander made a motion to deny Mr. Spellman's request; seconded by Commissioner Joh; vote: 5 yes, 2 no (Commissioners Collins and Stephenson voted no); motion carried.**

#### **AFFILIATE BROKER APPLICANT INFORMAL CONFERENCE**

- **Gabriel Palmer, applicant, 322003**, appeared to request he be approved for an Affiliate Broker license. His potential Principal Broker Sharon Laing was scheduled to address the Commission by teleconference as she was unable to attend the meeting in person. However, due to technical problems with the teleconference equipment a connection was never established by phone. Mr. Palmer disclosed to the Commission convictions of Simple Possession & Casual Exchange & Possession of Drug Paraphernalia in 2004, Simple Possession & Casual Exchange & Evading Arrest – Non Vehicle Flight in 2006 and Theft – Value of Property Services \$500.00 or less & Evading Arrest – Non-Vehicle Flight in 2007. After some discussion regarding TREC policy, **Commissioner Alexander made a motion to allow Gabriel Palmer to reappear before the Commission when his Principal Broker can be present at the meeting; seconded by Commissioner Collins; unanimous vote; motion carried. Shortly following the vote on the previous motion, the discussion returned briefly to Mr. Palmer’s conference. Pursuant to the motion to delay the conference until his Principal Broker could be present, Commissioner Haynes made a motion to not allow applicants or licensees to appear before the Commission without being accompanied by their Principal Broker; seconded by Commissioner Alexander; unanimous vote; motion carried. Legal staff was directed to write a Policy which will be posted to the TREC website and be enforced.**

**EDUCATION REPORT, STEVE MCDONALD, EDUCATION DIRECTOR**

Mr. Steve McDonald, Education Director, presented Courses for Commission Evaluation for the month of August 2010. **Commissioner Collins made a motion to approve all Courses for Commission Evaluation; seconded by Commissioner Joh; opened to discussion; unanimous vote; motion carried.**

Mr. Steve McDonald, Education Director, presented the following instructor reviews to the Commission.

- Sally Cummings with TAR requests that Steve Champion and Karen Randolph be approved to teach the REBAC course Real Estate Marketing Reboot #6396.
  - Mr. Champion is a previously approved instructor. He holds a Tennessee Broker’s license (#253598).
  - Ms. Randolph holds a Tennessee Broker’s license (#258862); she holds the CRB, CRS, and GRI designations.
- Sally Cummings with TAR requests that Bobby Wood and Brent Maybank be approved to teach the NAR Ethics Course #6256.
  - Mr. Wood and Mr. Maybank are previously approved instructors.
- Chattanooga Area Association of REALTORS® requests Susan Barnette be added to the At Home with Diversity Course # 5655.
  - She is a previously approved instructor.

**Commissioner Joh made a motion to approve the above requests for instructor approval; seconded by Commissioner Collins; unanimous vote; motion carried.**

Mr. McDonald addressed the Commission regarding course renewals. He inquired of the Commission in what manner they would like to have the courses and instructors presented. He asked if they wanted a report that includes comments for all courses without material changes and biographies for instructors. It was the consensus of the Commission that if there are no changes to a previously reviewed course and/or change of instructor the Commission will rely on Mr. McDonald's review of accompanying materials as satisfactory for the purposes of presenting courses for renewal to the Commission.

This concluded Mr. McDonald's Education Report and the Commission returned to the Executive Director's Report.

Chairman Northern reported on the Chairman's meeting he recently attended. Commissioner Newman was present as well as Assistant Commissioner Majchrzak and all new and existing Chairpeople for the Division of Regulatory Boards. He commented briefly on discussions that were held at the meeting regarding the streamlining of the complaint process for all boards.

The Commission reviewed a proposed meeting schedule for 2011. There was discussion regarding the April meeting date. **Commissioner Alexander made a motion to approve the April meeting for April 13 & 14, 2011 as proposed; seconded by Commissioner Joh; after discussion surrounding the timing of the March and May meeting, Commission Alexander rescinded his motion. Commissioner Alexander made a motion to hold the April meeting on April 20 & 21; seconded by Commissioner Stephenson; during discussion it was determined that there was a conflict for a Commissioner. Therefore the motion failed. Commissioner Joh made a motion to hold the meeting on April 13 & 14, 2011; seconded by Commissioner Collins; vote: 6 yes, 0 no; Commissioner Stephenson abstained because he has no preference; motion carried. Vice-Chairman Woods made a motion to approve the remainder of the proposed 2011 meeting schedule; there was no second and Vice-Chairman Woods rescinded his motion. Commissioner Joh made a motion to adopt as the 2011 TREC meeting schedule the following dates and locations: January 12 & 13, 2011 in Nashville, February 9 & 10, 2011 in Nashville, March 21 & 22, 2011 in Franklin/Cool Springs, April 13 & 14, 2011 in Nashville, May 12 & 13, 2011 in Memphis, June 8 & 9, 2011 in Nashville, July 6 & 7, 2011 in Nashville, August 10 & 11, 2011 in Nashville, September 8 & 9, 2011 in Jackson, October 13 & 14, 2011 in Kingsport, November 9 & 10, 2011 in Nashville and December 7 & 8, 2011 in Nashville; seconded by Vice-Chairman Woods; motion carried.**

Chairman Northern recognized General Counsel Wayne Pugh among the attendees and asked him if he wished to address the Commission. Mr. Pugh briefly discussed the streamlining of the complaint process.

This concluded Ms. Maxwell's Executive Director Report and began Ms. Ryan's Legal Report.



Ms. Ryan discussed possible proposed legislation with the Commission. Pursuant to a requested Attorney General's opinion, Ms. Ryan suggested the Commission might want to modify T.C.A. §62-13-303 [Qualifications – Prerequisites for Licensing] & T.C.A. §62-13-304 [Written Examinations]. It was the consensus of the Commission that the AG's opinion would be reviewed and addressed at the September meeting.

She also suggested that the Commission may want to discuss changing the statute to require Vacation Lodging Services' Designated Agents to pay into the Education & Recovery Fund as a part of their licensing fee. Ms. Ryan then asked if any of the Commissioners had any proposed legislation they would like to discuss. It was determined that any further discussion would be held at the September meeting in Jackson.

**Chris Sexton, Director of Governmental Affairs for the Tennessee Association of REALTORS®** was called upon to address the Commission regarding any proposed legislation that TAR may be presenting that would affect TREC's licensees. Mr. Sexton advised that after the fall gubernatorial race is decided TAR will focus their energies on finding legislators willing to bring forth legislation. He offered that TAR would be amenable to working with TREC on any proposed legislation that was of benefit to both TREC licensees and TAR members.

Ms. Ryan advised the Commission that Policy #2000-CPS-004 [Internet Advertising] needed to be rescinded because the content of the policy is now included in Rule 1260-02-.12 [Advertising]. **Vice-Chairman Woods made a motion to rescind Policy 2000-CPS-004 because it is redundant; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**

#### **LEGAL REPORT, ROBYN RYAN, ASSISTANT GENERAL COUNSEL**

- 1) 2010003071 – Commissioner Collins made a motion to accept legal counsel's recommendation to close and flag pending the litigation results; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 2) 2010017481 &**
- 3) 2010017482 – Vice-Chairman Woods made a motion to issue a Consent Order to Respondent 1 with a civil penalty of \$1,000.00 for failure to respond and require he/she to attend a two day TREC meeting within six months and to also issue a Consent Order to Respondent 2 with a civil penalty of \$1,000.00 for failure to respond and require he/she to attend a two day TREC meeting within six months; seconded by Commissioner Alexander; unanimous vote; motion carried**
- 4) 2010010121 – Vice-Chairman Woods made a motion to accept legal counsel's recommendation to issue a Consent Order with a civil penalty of \$1,000.00 for failure to respond; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 5) 2010006941 &**
- 6) 2010006942 – Commissioner Flitcroft made a motion to accept legal counsel's recommendation to issue a Consent Order to Respondent 1 with a civil penalty of \$1,000.00 for violations of T.C.A. §62-13-312(5)**

- [failing to account for moneys coming into a licensee's possession belonging to others and a \$500.00 civil penalty for violation of T.C.A. §62-13-312(20)[conduct which constitutes improper, fraudulent or dishonest dealings and require he/she to complete eight (8) hours of continuing education in contract writing within six (6) months and as to Respondent 2, a firm, issue a Consent Order with a civil penalty of \$1,000.00 for violations of T.C.A. §62-13-312(5) [failing to account for moneys coming into a licensee's possession belonging to others and a \$500.00 civil penalty for violation of T.C.A. §62-13-312(20)[conduct which constitutes improper, fraudulent or dishonest dealings]; seconded by Commissioner Joh; unanimous vote; motion carried.
- 7) 2010014051 – Vice-Chairman Woods made a motion to accept legal counsel's recommendation to issue a Consent Order with a civil penalty of \$1,000.00 for failure to respond and additionally require Respondent to attend a two (2) day TREC meeting within six (6) months; seconded by Commissioner Joh; unanimous vote; motion carried.
  - 8) 2010017651 – Commissioner Joh made a motion to accept legal counsel's recommendation to dismiss; seconded by Commissioner Stephenson; unanimous vote; motion carried.
  - 9) 2010003121 – Commissioner Stephenson made a motion to accept legal counsel's recommendation to dismiss; seconded by Vice-Chairman Woods; unanimous vote; motion carried.
  - 10) 2010010132 &
  - 11) 2010010131 – Commissioner Collins made a motion to accept legal counsel's recommendation and dismiss as to both Respondents; seconded by Vice-Chairman Woods; unanimous vote; motion carried.
  - 12) 2010010011 – Commissioner Stephenson made a motion to accept legal counsel's recommendation to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
  - 13) 2010017191 – Commissioner Joh made a motion to accept legal counsel's recommendation to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
  - 14) 2010010161 – Commissioner Stephenson made a motion to accept legal counsel's recommendation to issue a Consent Order with a civil penalty of \$1,000.00 for violating T.C.A. §62-13-404(2) [failing to be loyal to the interests of the client and for violation of T.C.A. §62-13-312(20) [any conduct which is improper]; seconded by Commissioner Alexander; vote: 6 yes, 1 no (Vice-Chairman Woods voted no); motion carried.

Ms. Ryan reviewed the Legal File Summary and the Consent Order Log with the Commission. She also reviewed the procedure that will be followed for the upcoming E&O hearings on August 24, 25 & 26, 2010 and October 24 & 25, 2010. She advised that some Respondents may not show up at all and some may choose to appear. She explained that the hearings will run much like traffic court and the judge will call the docket. She advised that an affidavit from Eve Maxwell and Cindy Rice Grissom accompanied the complaint so no additional proof is required.

Chairman Northern recessed the meeting Wednesday, August 4, 2010 at 3:58 p.m.

**TENNESSEE REAL ESTATE COMMISSION**  
**August 4 – 5, 2010**

The Tennessee Real Estate Commission convened on August 5, 2010 at 9:08 a.m. in the Davy Crockett Tower at 500 James Robertson Parkway, Room 160, Nashville, TN 37243. **The following Commission Members were present Chairman Isaac Northern, Vice-Chairman Allen Woods, Commissioner Grover Collins, Commissioner William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner Michelle Haynes and Commissioner David Flitcroft. Commissioners Carol Tate and Wendell Alexander were absent. Others Present: Eve Maxwell, Executive Director, Steve McDonald, Education Director, Robyn Ryan, Assistant General Counsel, Mandy Spencer, Paralegal and Kelly McDermott, Administrative Secretary.**

The Formal Hearing for Mr. John Murphree, license #234714, complaint #2009015241, Docket # 12.18-104877A convened at 9:09 a.m.

**The Commission voted to the require the following conditions of Mr. Murphree: 1) He pay the original civil penalty of \$1,000.00 immediately for failure to purchase Errors & Omissions insurance in a timely manner; 2) He must pay the cost of the hearing within 30 days of notice of the amount; 3) He is to be immediately suspended for four months; 4) He is required to complete four (4) hours of continuing education in ethics prior to the end of his suspension and 5) He must renew his license when it is required to be renewed before his expiration date. Mr. Murphee will be revoked if he does not abide by the terms of the agreement.**

The formal hearing for Mr. John Murphree adjourned at 10:24 a.m.

The formal hearing for Mr. Temp Tullos, license #250992, complaint #2008022321, 2009018951 and 2009011291, Docket # 12.18-107597A convened at 10:43 a.m.

**The Commission voted to revoke Mr. Temp Tullos' license, #250992, and assess a civil penalty of \$5,000.00 and also assess to Mr. Tullos all costs of the formal hearing.**

The formal hearing for Mr. Temp Tullos adjourned at 1:14 p.m.

**Commissioner Joh made a motion to adjourn the meeting; seconded by Commissioner Stephenson; unanimous vote; motion carried.**

Chairman Northern adjourned the meeting Thursday, August 5, 2010 at 1:15 p.m.