

**TENNESSEE REAL ESTATE COMMISSION MINUTES**  
**May 12 - 13, 2011**

The Tennessee Real Estate Commission convened on May 12, 2011, at 9:25 a.m., in the 1<sup>st</sup> Floor Commission Chambers at the Shelby County Administration Building, 160 N. Main Street, Memphis, Tennessee, 38103. The following Commission Members were present: Chairman Isaac Northern, Commissioner Grover Collins, Commissioner William "Bear" Stephenson, Commissioner Michelle Haynes, Commissioner Carol Tate and Commissioner Wendell Alexander. Commissioner Valerie Joh, Commissioner David Flitcroft and Vice-Chairman Allen Woods were absent. Others Present: Eve Maxwell, Executive Director, Steve McDonald, Education Director, Mark Green, Assistant General Counsel, Robyn Ryan, Litigation Attorney and Kelly McDermott, Administrative Secretary.

The first order of business was the adoption of the agenda (**Exhibit 1**) for the May 2011 Commission meeting. **Commissioner Stephenson made a motion to adopt the May 2011 agenda; seconded by Commissioner Tate; unanimous vote; motion carried.**

The next order of business was the approval of the April 2011 minutes (**Exhibit 2**). **Commissioner Alexander made a motion to approve the April 2011 minutes; seconded by Commissioner Stephenson; unanimous vote; motion carried.**

**The Formal Hearing for Aquil T. El Amin, licensee #271068, complaint #2010003111, Docket #12.18-111511A convened at 9:28 a.m.**

Chairman Northern recessed the meeting for a lunch break at 11:22 a.m. and the meeting reconvened at 1:23 p.m.

In the matter of Aquil T. El Amin, license #271068, complaint #2010003111, Docket # 12.18-111511A, the Commission voted to impose the following penalty:

- 1) Respondent shall be assessed a civil penalty in the amount of Three Thousand Dollars (\$3,000.00) and shall pay this in monthly installments of Five Hundred Dollars (\$500.00) together with the court costs outlined below.
- 2) It was further ordered, adjudged and decreed that the Respondent's Real Estate License shall be revoked so that he cannot reinstate his current broker license. Respondent shall be allowed to sit for the Affiliate Broker's license exam as soon as he has fulfilled all requirements for that affiliate license, including but not limited to, the preliminary education requirements and any other statutory requirements in place at the time of application.
- 3) It was further ordered, adjudged and decreed that Respondent shall pay all court costs in the matter including all costs of the Administrative Law Judge in the amount of One Thousand Five Hundred and Thirty Dollars (\$1,530.00), and court reporter fees in the amount of One Thousand One Hundred Fifty-Five Dollars (\$1,155.00) for a total of Two Thousand Six Hundred and Eighty-Five dollars (\$2,685.00).

- 4) This amount together with the judgment amount of Three Thousand Dollars shall be paid in the monthly payments outlined above and must be paid within twelve (12) months. Respondent shall pay a balloon payment in excess of Five Hundred Dollars (\$500.00) if necessary to accommodate the completion of all payments within the twelve month period.

The formal hearing adjourned at 3:19 p.m. and the regular business meeting reconvened.

#### **AFFILIATE BROKER APPLICANT INFORMAL APPEARANCE**

**Terrance Hill, applicant**, appeared with his potential Principal Broker Gary Blume to request he be approved to apply for an Affiliate Broker license. Mr. Hill disclosed to the Commission a conviction of Possession of Cocaine in 1997. **Commissioner Alexander made a motion to approve Mr. Hill's request to be approved to apply for an affiliate broker license; seconded by Commissioner Collins; 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 April 29, 2011, TREC had a total of 52 open complaints. Of those 52 open complaints, none were Errors & Omissions insurance complaints. There were 19 new complaints in April 2011. There were 40 complaints in the legal department and 12 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2010-2011 is 126. Total Civil Penalties paid in April 2011 were \$5,547.00.
- **Licensing Statistics** (Exhibit 4) – Ms. Maxwell presented licensing statistics for the month of April 2011. As of May 2, 2011, there were 24,743 active licensees, 2,456 inactive licensees and 10,312 retired licensees. There were 4,206 active firms and 331 retired firms. There were 177 new applications approved in April 2011. Further, she presented a comparison of total licensees for individuals (active, retired and inactive) and firms in both May of 2008, 2009, 2010 and 2011. She also presented license renewal percentages and the average number of licenses issued per month in 1997 and 2000 – 2011, firms closed or retired from 2008 – 2011 and the applications approved from 2008 – 2011.

Ms. Maxwell presented the Commission with a report on the number of uninsured licensees as well as a comparison of these statistics to those in the prior E&O renewal period in 2009. She advised the Commission that the Complaint Coordinator Conell House is in the process of opening complaints against all uninsured active licensees and then he will open complaints against principal brokers who have uninsured affiliates for failure to supervise and licensees in broker release status who are uninsured. She explained that after Mr. House opens the complaints in the TREC office, the legal division will open the complaint in legal and consent orders will be sent via regular and certified mail. Ms. Robyn Ryan, TREC's litigation attorney, asked the Commission to

consider allowing the E&O hearings to be heard by an Administrative Law Judge. The consensus of the Commission was to take into account, after the consent orders are sent, how many formal hearings will be held and determine if they will hear them as a Commission or designate they be heard by an ALJ.

Ms. Maxwell addressed the next agenda item regarding the scheduling and planning of future Longevity Breakfasts, which are breakfasts held to honor licensees who have forty or more years of service in the real estate industry. She advised the Commission that she had passed her notes from the previous Middle Tennessee breakfast to Commissioner Haynes for planning purposes. She also explained that per the Commissions direction, the breakfasts will be held over a three years period in each grand division of the State of Tennessee. It was discussed whether someone who received an award at the last breakfast would receive an award again or would only licensees who recently obtained their 40 year status be given an award. Commissioner Haynes suggested that all of those licensees be invited to the breakfast and be recognized verbally for their years of service and to award certificates to the new licensees reaching the 40 year longevity mark. The Commission also discussed a potential date to hold the Middle Tennessee breakfast. It was determined that it would be a potential goal to hold the first breakfast in Middle Tennessee in the early spring of 2012.

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

Mr. Steve McDonald, Education Director, presented Courses for Commission Evaluation for the month of May 2011 and the requests for Instructor Approval.

#### **Instructor Reviews**

1. Sally Cummings of TAR (#1110) requested the following previously approved instructors be granted approval to instruct these courses:
  - Larry Carroll to teach ABR (#2627) 2-day course
  - Brenda Brewster to teach Transaction Desk Basic (#5747), Transaction Desk Advanced (#5748), and Agency (#6257)
  - Jeff Jones to teach the TREC Core Course (#6520)
  - Bryan Kendrick to teach Transaction Desk Basic (#5747) and Transaction Desk Advanced (#5748)
  - James Hoppa to teach NAR ethics (#6256), Agency in Tennessee (#6257), and the 2011-2012 TREC Core Course (#6520)
2. Susan Barnette of Greater Chattanooga Association of REALTORS (#1073) requested that Pam Duffy be approved to teach Transaction Desk Basic (#5876), Code of Ethics (#4102), and TREC Core Course (#6622).
3. Dottie Oslin of Tennessee Real Estate Educational Systems- TREES (#1032) requested that David W. Hickey be approved to instruct the courses Affiliate Broker Pre-License I & II (#1627), Course for New Affiliates (#1571), Office Broker Management (#335) and the 2011-2012 TREC Core (6604).

**Commissioner Collins made a motion to approve the Courses for Commission Evaluation and the Instructors for Review as presented; seconded by Commissioner Tate; unanimous vote; motion carried.**

**Commissioner Tate made a motion to recess the meeting; seconded by Commissioner Collins; unanimous vote; motion carried.**

Chairman Northern recessed the meeting on Thursday, May 12, 2011 at 4:23 p.m.

### **TENNESSEE REAL ESTATE COMMISSION MINUTES May 13, 2011**

The Tennessee Real Estate Commission reconvened on May 13, 2011, at 9:11 a.m., in the 1<sup>st</sup> Floor Commission Chambers at the Shelby County Administration Building, 160 N. Main Street, Memphis, Tennessee, 38103. The following Commission Members were present: Chairman Isaac Northern, Commissioner Grover Collins, Commissioner William "Bear" Stephenson, Commissioner Michelle Haynes, Commissioner Carol Tate and Commissioner Wendell Alexander. Commissioner Valerie Joh, Commissioner David Flitcroft and Vice-Chairman Allen Woods were absent. Others Present: Eve Maxwell, Executive Director, Steve McDonald, Education Director, Mark Green, Assistant General Counsel, Robyn Ryan, Litigation Attorney and Kelly McDermott, Administrative Secretary.

Chairman Northern introduced the first agenda item which was a panel discussion of HUD, REO and Short Sales. He stated that in the past the Commission has found, through legal report deliberations of other complaints, that there are some issues with HUD, REO and Short Sales. He explained that members of the Commission who are very involved in the field thought it would be beneficial to hold a panel discussion. Commissioners Tate, Collins and Alexander and Alex Bynum, affiliate licensee at Wendell Alexander Realty spoke regarding the process for HUD houses. Mr. Bynum, as part of his contract, puts on a program every month to inform licensees on how to sell HUD houses. He explained that HUD began a new process in September 2010 called the MM3 contract. He also explained that the main source of accurate information for HUD houses is hudhomestore.com and that each agent must register themselves as an individual licensee and create a password. Mr. Bynum explained that there are three asset managers for HUD. They are as follow:

1. OFORI & Associates  
2000 Riveredge Parkway, Suite 300  
Atlanta, GA 30328  
Phone: 770-955-5880  
Fax: 771-955-5881  
Email: [Atlanta@oforireo.com](mailto:Atlanta@oforireo.com)
2. HOMETELOS LP  
1283 Murfreesboro Pike, Suite 200  
Nashville, TN 37217  
Phone: 866-564-6637  
Fax: 615-932-5194  
Email: [contactus@hometelos.com](mailto:contactus@hometelos.com)

3. PEMCO, LTD  
3525 Piedmont Road, Building 5, Suite 310  
Atlanta, GA 30305  
Phone: 800-881-9260  
Fax: 404-995-7110  
Email: [customerserviceatl@pemco-limited.com](mailto:customerserviceatl@pemco-limited.com)

He explained that all three asset managers have different rules, regulations and guidelines regarding how to handle the sell of HUD houses and that their closing timelines differ.

Commissioners Tate and Collins spoke regarding their experience with HUD, Fannie May and Freddie Mac. A more comprehensive report of the full panel discussion will be created and be available in the near future and will also ultimately be attached to the minutes for the May meeting.

#### **BROKER APPLICANT INFORMAL APPEARANCE**

**Samantha Ann Campbell, applicant**, appeared with her Principal Broker Anita Bell to request she be approved to apply for a Broker license by reciprocity with Arkansas. Ms. Campbell is an active licensee in Arkansas. Ms. Campbell disclosed to the Commission convictions for the Violation of the Hot Check Law in 2003 & 2007. **Commissioner Stephenson made a motion to approve Ms. Campbell's request to be approved to apply for a Broker license by reciprocity; seconded by Commissioner Collins; unanimous vote; motion carried.**

#### **LEGAL REPORT, MARK GREEN, ASSISTANT GENERAL COUNSEL**

- 1) 2010031531 &
- 2) 2010031532 – Commissioner Tate previously reviewed the complaint and made the recommendation to dismiss. Commissioner Stephenson made a motion to dismiss; seconded by Commissioner Alexander; vote: 4 yes, 0 no, Commissioner Tate abstained; motion carried.
- 3) 2010035741 &
- 4) 2010034742 – Commissioner Tate previously reviewed the complaint and made the recommendation to accept legal counsel's previous recommendation. Commissioner Alexander made a motion to accept Commissioner Tate's and Mr. Green's recommendation and issue a Consent Order to both Respondents with a civil penalty of \$500.00 for violating T.C.A. § 62-13-102(4)(A)(B) [definition of a Broker] and T.C.A. § 62-13-102(9)(A)(B) [definition of a Facilitator]; seconded by Commissioner Stephenson; vote: 4 yes, 0 no, Commissioner Tate abstained; motion carried.
- 5) 2011004931 – Commissioner Collins made a motion to accept legal counsel's recommendation to dismiss; seconded by Commissioner Tate; unanimous vote; motion carried.
- 6) 2011002251 – The complaint was deferred and Commissioner Collins will review it and report back to the Commission at a future meeting.

- 7) 2011003721 &
- 8) 2011003722 – Commissioner Alexander made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Tate; unanimous vote; motion carried.
- 9) 2011004351 – Commissioner Collins made a motion to accept legal counsel’s recommendation to issue a Consent Order with a civil penalty of \$1,000.00 for violation of T.C.A. § 62-13-312(5) [failing to account for monies belonging to others] and T.C.A. § 62-13-321 [escrow or trustee account of deposited funds] and Rule 1260-2-.09 [deposits and earnest money]; seconded by Commissioner Tate; unanimous vote; motion carried.
- 10) 2011003781 – Commissioner Collins made a motion to accept legal counsel’s recommendation to issue a Letter of Warning; seconded by Commissioner Haynes; unanimous vote; motion carried.
- 11) 2011002081 &
- 12) 2011002082 &
- 13) 2011002083 – Commissioner Stephenson made a motion to accept legal counsel’s recommendation to issue a Letter of Warning; seconded by Commissioner Tate; unanimous vote; motion carried.
- 14) 2011003301 &
- 15) 2011003302 – Commissioner Collins made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.
- 16) 2011003171 &
- 17) 2011003172 &
- 18) 2011003173 – The complaints were deferred and Commissioner Stephenson will review them and report back to the Commission at a future meeting.

There was a brief legislative update by Mr. Green. He explained that the VLS legislation is not going to move out of subcommittee this year to the floor of the legislature. Ms. Maxwell advised the Commission that although the proposed VLS rules are still in the Attorney General’s office, the Vacation Lodging Service industry has moved forward with moving toward compliance in the event the rules pass. Mr. Green reviewed the Consent Order Log with the Commission.

### **Commissioner Reports**

Each Commissioner and Staff member reported on matters of concern to them and to the Commission and all Commissioners expressed their appreciation to the Memphians for their hospitality during the Commission’s visit.

**Commissioner Stephenson made a motion to adjourn; seconded by Commissioner Tate; unanimous vote; motion carried.**

Chairman Northern adjourned the meeting on May 13, 2011 at 11:45 a.m.