

TENNESSEE REAL ESTATE COMMISSION MINUTES
October 11 – 12, 2012

The Tennessee Real Estate Commission convened on October 11, 2012, at 9:18 a.m., in Room 402 of the Hamilton County Courthouse, 625 Georgia Avenue, Chattanooga, TN 37402. The following Commission Members were present: Chairman William Stephenson, Vice-Chairman Michelle Haynes, Commissioner Isaac Northern, Commissioner Grover Collins, Commissioner Wendell Alexander, Commissioner John Griess and Commissioner David Flitcroft. Commissioners Janet DiChiara and Austin McMullen were absent. Others Present: Eve Maxwell, Executive Director, Steve McDonald, Education Director, Assistant General Counsel Julie Cropp, Assistant General Counsel Robyn Ryan and Kelly McDermott, Administrative Secretary.

After calling the meeting to order, Hamilton County Commission Chairman Larry Henry officially welcomed the members of the board, staff and attendees of the meeting. In his remarks, Mr. Henry spoke of the importance of local real estate professionals to the economic growth of Hamilton County.

Chairman Stephenson called Francie Ryder of the Greater Chattanooga Association of Realtors to the front of the meeting room for a presentation. Mr. Stephenson presented to Ms. Ryder an official proclamation from Governor Haslam. He read the following proclamation: "On behalf of the people of Tennessee and by virtue of the authority vested in me, I hereby confer upon Francie Ryder, in honor of her 27 years of faithful service to the Greater Chattanooga Association of Realtors, a day of recognition, given under my hand and the Great Seal of the State of Tennessee this first day of January 2013, Bill Haslam, Governor." Ms. Ryder thanked the Commission and spoke of her appreciation for the Tennessee Real Estate Commission Board and Staff.

The first order of business was the adoption of the agenda (**Exhibit 1**) for the October 2012 Commission meeting. Commissioner Flitcroft asked that he be allowed to have a few minutes on the agenda to discuss some legislative/law changes that would affect licensees. **Commissioner Alexander made a motion to adopt the agenda as amended for the October 2012 agenda; seconded by Commissioner Northern; unanimous vote; motion carried.**

The next order of business was the approval of the September 2012 minutes (**Exhibit 2**). **Commissioner Collins made a motion to approve the September 2012 minutes; seconded by Commissioner Griess; vote: 6 yes, 0 no; Commissioner Flitcroft and Commissioner Alexander abstained as they were absent from the September meeting; motion carried.**

LEGAL REPORT, JULIE CROPP, ASSISTANT GENERAL COUNSEL

A copy of the October 2012 Legal Report is attached as an exhibit to the end of these minutes with all of the decisions reached by the Commission.

At the beginning of the text of each legal report (complaint report) the following text is inserted and Ms. Cropp read it into the record: "Any consent order authorized by the Commission should be signed by Respondent and returned within thirty (30) days. If said consent order is not signed and returned within the allotted time, the matter may proceed to a formal hearing."

- 1) 2011030811 &
- 2) 2011030812 – Commissioner Northern made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Griess; unanimous vote; motion carried.
- 3) 2012006651 &
- 4) 2012066652 – Commissioner Alexander made a motion to defer the complaint because Commissioner DiChiara had previously reviewed the complaint and was to report to the full Commission and she was absent from the meeting; seconded by Commissioner Haynes; unanimous vote; motion carried.
- 5) 2012010781 – Commissioner Alexander made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
- 6) 2012011441 – Commissioner Northern made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Alexander; unanimous vote; motion carried.
- 7) 2012012041 &
- 8) 2012012042 &
- 9) 2012012043 – Commissioner Alexander made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Griess; unanimous vote; motion carried.
- 10) 2012012121 – Commissioner Flitcroft made a motion to accept legal counsel’s recommendation to issue a consent order with a civil penalty of \$1,000.00 for unlicensed activity in violation of T.C.A. § 62-13-301 which includes an order to cease and desist unlicensed activity; seconded by Commissioner Collins; unanimous vote; motion carried.
- 11) 2012012371 – Commissioner Griess made a motion to accept legal counsel’s recommendation to issue a Letter of Instruction regarding the definition of “broker” within T.C.A. § 62-13-102(4)(A) and (B), § 62-13-103 titled “broker or affiliate identified by single act,” and § 62-13-301, which prohibits unlicensed activity; seconded by Commissioner Haynes; unanimous vote; motion carried.
- 12) 2012012841 &
- 13) 2012012842 &
- 14) 2012012843 – Commissioner Collins made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Griess; unanimous vote; motion carried.
- 15) 2012013191 – Commissioner Northern made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.
- 16) 2012013201 – Commissioner Alexander made a motion to accept legal counsel’s recommendation to close and flag and that if Respondent reapplies for licensure, Respondent must appear before the Commission for an informal appearance; seconded by Commissioner Northern; unanimous vote; motion carried.
- 17) 2012013791 – Commissioner Alexander made a motion to accept legal counsel’s recommendation to dismiss but also moved that an audit should be performed; seconded by Commissioner Griess; unanimous vote; motion carried.
- 18) 2012014461 – Commissioner Alexander made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Flitcroft; unanimous vote;

motion carried. Commissioner Griess made a motion for staff to open a complaint against the principal broker for failure to supervise and also the affiliated licensee involved in this complaint, #2012014461; seconded by Commissioner Alexander; unanimous vote; motion carried.

19) 2012016531 &

20) 2012016532 – Commissioner Griess made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Haynes; vote: 6 yes, 0 no, Commissioner Flitcroft recused himself; motion carried.

Ms. Cropp reviewed the Consent Order Log with the Commission.

Ms. Cropp advised the Commission that they need to, to avoid confusion, repeal the previous policy on E&O delinquency (Policy # 2011-CPS-001) since a new policy had been adopted at the previous month’s meeting. **Commissioner Alexander made a motion to repeal Policy 2011-CPS-001; seconded by Commissioner Griess; unanimous vote; motion carried.**

At the previous month’s meeting the Commission had discussed potential changes to its policy on required appearances by applicants with prior criminal convictions. Ms. Cropp advised the Commission that she had discussed the matter and the potential creation of a policy with General Counsel Wayne Pugh. She stated the policy could address time limits on when a conviction occurred and whether that person would be required to appear before the board to receive a preliminary decision on whether they may be licensed or not. Deputy General Counsel Pugh advised that it is in the authority of the Commission to make a policy but concurred with Ms. Cropp that it might be difficult to set a specific time limit. Ms. Cropp stated that one concern, when setting a specific time period, is if a person did have a conviction or convictions then perhaps the date it occurred should not matter as much as the nature of the offense or the number of offenses. For example, someone may have one felony for the sale of drugs or theft of property 15 or 20 years ago or they could have a string of varied convictions from over 15 to 20 years ago that are more severe in nature and should be evaluated more seriously. It was discussed whether specific board members or staff could be assigned to review the applicant’s information ahead of time and determine if it is necessary for the applicant to appear based on their criminal history. **Commissioner Alexander made a motion to have the Executive Director and the Vice-Chairman review the applicants on a case by case basis and determine if the person must appear; no second; discussion opened.** It was discussed that any policy would have to set a secondary person to review the applicants if the Vice-Chairman is unavailable (i.e. in the absence of the Vice-Chairman, the Chairman would conduct the review with the Executive Director). Vice-Chairman Haynes revisited the possibility of having an anonymous report prepared and presented to the entire Commission on a monthly basis and then they could vote on whether someone needs to appear. **After discussion, Commissioner Alexander made a motion to table his original motion until Ms. Cropp can come back to the Commission with a proposed policy taking into consideration the discussion; no second; opened to discussion.** It was discussed among the Commissioners that the input and perspective of all of the board members as well as speaking with the applicant’s potential principal broker, is very important to the process. Ms. Maxwell reviewed the current standard operating procedure for how these applicants are handled. The Commissioners expressed interest in finding out how other states handle applicants with past criminal convictions and suggested perhaps research could be done and then the Executive Director could present that information to the full Board.

Ultimately, Commissioner Alexander withdrew his motion to table and his original motion and it was decided that the standard operating procedure would remain in place for the time being and that a committee should possibly be formed to discuss TREC requiring background checks for all applicants, which would require a change in statute.

EDUCATION REPORT, STEVE MCDONALD, EDUCATION DIRECTOR

Mr. Steve McDonald, Education Director, presented Courses for Commission Evaluation for October 2012. **Commissioner Collins made a motion to approve the Courses for Commission Evaluation; seconded by Commissioner Griess; unanimous vote; motion carried.**

Mr. McDonald presented the following Instructor Review for the month of October 2012:

- Paul Stumb, Ph.D. of Cumberland University (1399) requests the approval of Bob Sorey to the following courses: Fair Housing (#4755), Red Flags - Property Inspections (#4758), Real Estate Finance(#4761), Buyer Representation (#4762), Broker Management (#4864), Risk Management (#5380), Tennessee Real Estate Principles (#5384) and Course for New Affiliates (#5054).

Commissioner Northern made a motion to approve the Instructor for Review; seconded by Commissioner Haynes; unanimous vote; motion carried.

Commissioner Griess reported briefly on the Education Seminar in Knoxville that he attended in Knoxville. He says it was very informative and encouraged licensees to attend.

Chairman Stephenson recessed the meeting for lunch at 11:30 a.m. and the meeting was reconvened at 1:08 p.m.

The formal hearing of TREC v. Royal Resorts International, Docket #12.18-117988A convened at 1:09 p.m. adjourned at 3:46 p.m.

In the hearing of Royal Resorts International, LLC, it was ordered that Respondent shall pay a civil penalty in the amount of Two Thousand Dollars (\$2,000.00) representing the maximum penalties for violation of T.C.A §62-13-301 and §62-13-103(b). The Respondent was further ordered to pay all hearing costs in this matter which includes but is not limited to the costs of the Administrative Law Judge and the court reporter. The hearing costs in the matter total \$1,705.00, including court reporter costs of Eight Hundred Twenty-Five Dollars (\$825.00), Administrative Law Judge costs of Eight Hundred Eighty Dollars (\$880.00). Respondent was therefore ordered to pay the total court costs of One Thousand Seven Hundred and Five Dollars (\$1,705.00) within thirty days of the entry of the order.

Mr. Flitcroft addressed the Commission regarding a few matters that he believed to be of interest to the Board and attendees. He explained that he had passed out to the rest of the board members a copy of the Oklahoma statute regarding unlicensed activity. He encouraged looking into the possibility of other interested parties introducing legislation to give TREC some teeth when it comes to combatting unlicensed activity. He also touched on E&O delinquency and encouraged licensees/attendees to spread the word about renewing their policies. He further stated that he has heard change is coming regarding owner financing and encouraged licensees to check with their attorney about these potential changes.

He stated that the HUD One Closing Statement, Truth in Lending and Good Funds Estimate are going to be abolished and put together in one document generated by the lender and that these changes should take affect sometime in the spring of 2013. He explained that one critical part of the changes is that documents must be delivered to the parties at least three days in advance of a closing.

This concluded the day's business and Chairman Stephenson recessed the meeting on Wednesday, October 11, 2012 at 3:58 p.m.

October 12, 2012

The Tennessee Real Estate Commission convened on October 11, 2012, at 9:18 a.m., in Room 402 of the Hamilton County Courthouse, 625 Georgia Avenue, Chattanooga, TN 37402. The following Commission Members were present: Chairman William Stephenson, Vice-Chairman Michelle Haynes, Commissioner Isaac Northern, Commissioner Grover Collins, Commissioner Wendell Alexander, Commissioner John Griess and Commissioner David Flitcoft were present. Commissioners Janet DiChiara and Austin McMullen were absent. Others Present: Eve Maxwell, Executive Director, Steve McDonald, Education Director, Assistant General Counsel Julie Cropp, Assistant General Counsel Robyn Ryan and Kelly McDermott, Administrative Secretary.

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 complaint statistics to the Commission. As of September 28, 2012 TREC had a total of 102 open complaints. Of those 102 open complaints, 0 were Errors & Omissions insurance complaints. There were 30 new complaints in September 2012. There were 94 complaints in the legal department and 8 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2012-2013 is 87. Total Civil Penalties paid in September 2012 were \$13,050.00.

Chairman Stephenson and Ms. Maxwell briefly touched on the recent Sunset Hearing of TREC that they both attended. They relayed a few of the key points discussed at the hearing and advised that it was determined that TREC's operations would continue.

- **Licensing Statistics** (Exhibit 4) – Ms. Maxwell presented licensing statistics for the month of February 2012. As of October 1, 2012 there were 23,787 active licensees, 853 inactive licensees and 9,577 retired licensees. There were 4,028 active firms and 286 retired firms. There were 185 new applications approved in September 2012. Further, she presented a comparison of total licensees for individuals (active, retired and inactive) and firms in September 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 – 2012, firms closed or retired from 2008 – 2012 and the applications approved from 2008 – 2012.

Ms. Cropp, Assistant General Counsel, presented the Commission with a preliminary draft of a proposed policy on Electronic Storage of Documents. **Commissioner Collins made a motion to adopt Policy #2012-CPS-009 – Policy on Electronic Records; seconded by Commissioner Alexander; unanimous vote; motion carried.** Following is the content of the adopted policy.

**COMMISSION POLICY STATEMENT
NUMBER 2012-CPS-009
EFFECTIVE DATE: October 12, 2012**

POLICY ON ELECTRONIC RECORDS

Pursuant to T.C.A. § 62-13-312(b)(6), real estate licensees must preserve records relating to any real estate transaction for three (3) years following the consummation of said real estate transaction. Real estate licensees may utilize electronic recordkeeping methods and comply with this requirement provided that the following conditions are met:

1. All documents required to be retained must be readily accessible in an organized format providing ease in document identification within twenty-four (24) hours of any request for inspection by representatives of the Tennessee Real Estate Commission (TREC).
2. In order to ensure proper document retention, the principal broker of all real estate firms which use electronic recordkeeping methods must develop and utilize a retention schedule which safeguards the security, authenticity, and accuracy of the records for the entire required retention period and which also provides for the use of technology and hardware which ensures the accessibility of records in a readable format.

Ms. Maxwell advised the Commission that Staff was awaiting a phone call from the RFP Contract Coordinator because the winning proposer was to be chosen that day, October 12 around 9 a.m. She once again reminded licensees to renew their E&O insurance by the end of the year. She stated that a letter will be sent to licensees regarding renewing E&O after the actual contract is signed by the winning proposer and the State.

Ms. Maxwell advised again that reciprocity ended at midnight on September 30, 2012. She stated that she had not heard very much feedback from other states on what will now be required of Tennessee licensees. She explained that Tennessee now has a License Recognition program and that each applicant's education history will be examined on a person by person basis and that every applicant coming into the state will be required to take the state exam. She explained that this change was made by the Board as an effort to ensure that individuals wishing to be licensed in Tennessee are well educated in Tennessee real estate laws. She stated that as far as Tennessee itself it concerned, current licensees by reciprocity will be grandfathered. She did clarify that if someone allows their license to lapse and they must reinstate, then the new requirements would apply to that person. She also stated that it is her understand that some other states may be requiring their current licensees licensed by reciprocity with Tennessee to obtain additional education. The Board discussed some of the various states and what each state requires now for License Recognition now that reciprocity has been abolished. Ms. Maxwell advised the Commission that several years ago Kentucky abolished Reciprocity and established a License Recognition Program. She explained that after

the TREC Board voted to not have any kind of exchange program with them, KREC came back and asked if TREC and KREC could enter into some kind of an agreement that would allow their licensees to come into Tennessee and work and vice versa, but at that time TREC decided not to do so. There was some discussion about whether this possible agreement with Kentucky should be revisited but it was ultimately determined that it would not be readdressed at the current time. The Commission determined, after discussion, that the issue of Reciprocity would not be readdressed further at the current time and that the decision to abolish Reciprocity would stand.

Ms. Maxwell reported to the Commission on topics discussed at the recent ARELLO Annual Conference. It was also discussed that ARELLO representatives had expressed concern that Tennessee is not as active as it once was in the past with ARELLO and that they had stated that they hoped that Tennessee would once again be able to become more active. Commissioner Alexander stated that, for the record, it is not the decision of the board members to not attend but is actually a decision reached by the Administration of the Department of Commerce & Insurance and Finance & Administration. It was discussed that Ms. Maxwell actually personally paid to attend the ARELLO Annual Conference herself and it was not funded by the State of Tennessee. She stated that she feels the value of attending the conference is well worth the cost to attend. She also stated that she had been selected to act as the Chair of the Real Estate Practices Advisory Group and has also been chosen as Director of ARELLO's District 2. She asked the Commissioners to begin thinking about who may want to request that they be allowed to travel to the ARELLO Spring Conference in April in Scottsdale, Arizona. She stated the justification must be submitted at least 60 days ahead of time.

She provided the Commission with a list of some of the hot topics discussed at the conference. They are outlined below:

1. Unauthorized You Tube videos
2. Regulation of Internet Advertising
3. Teams/Supervision
4. Timeshare transfer companies—unlicensed activity
5. Fair Housing—Direct vs. Indirect Discrimination
6. Escrow account—agreement signed by PB and bank allowing RE Commission access to view escrow account
7. Specific CE for PB
8. Unlicensed activity—fines, enforcement—Ohio fined 1.5 million in one unlicensed case (\$1000@day)-upheld by Ohio Supreme Court
9. Fraud Schemes-simultaneous close; options; convey to trust
10. Online buying, listing, leasing
11. Paperless transactions
12. Firm Audits
13. Maryland Real Estate Firm-trial agreement with Bank of America to meet with homeowners nearing foreclosure

Ms. Maxwell advised the Commission that she wanted to discuss the newly adopted policy regarding asset managers [2012-CPS-002 – Policy on Transactions Involving Asset Management Companies] because there seems to be some questions or misconceptions regarding the purpose and the scope of the policy. She explained the intent behind the creation of the policy.

She stated that if a licensee is in a situation where they are dealing with a HUD property, REO HUD Property, some other Federal Agency or a lender that is FDIC insured and there is a conflict between what is truly required and that regulation, then the Federal regulation is going to govern. She continued, however, saying that the Broker's Act is still going to apply to every other part of the transaction. She stated that it is very limited policy and the intention was not to disregard the Broker's Act and it only applies in situations where HUD has said, you must do something in particular to participate in the program. The policy is the Commission's way of recognizing that what is required by HUD might conflict with what the Broker's Act requires. Commissioner Alexander explained that his company is a designated listing company for HUD owned properties that have been foreclosed upon and he explained the processes followed when selling these homes. Commissioners Alexander, Griess and Collins each gave input into their concerns about the interpretation of the policy and their own business experiences with HUD owned properties.

Ms. Maxwell advised the Commission, after a phone call was received by the Department's RFP Coordinator, that Rice Insurance had been selected as the winning proposer for the 2013-2014 E&O insurance provider contract.

Ms. Maxwell presented the Commission with a copy of the current budget information for their review.

Ms. Maxwell briefly revisited the topic of the Government Operations Hearing. She stated that TREC had been asked along with the other divisions, to be more diligent in having employees lock their computer workstations when they are away from their desks. She also explained that she had been asked to implement a tracking system for claims made on the Education and Recovery Fund and to create a link on the TREC website so that consumers can access how to make a claim on the Education and Recovery Fund.

Ms. Maxwell advised the Commission that she has been attending meetings regarding the implementation of a new computer system to replace RBS.

Chairman Stephenson advised the Commission that he had been asked to go on record by the Administration regarding the raise in salary for Ms. Maxwell. He stated that the Administration had approved the \$10,000.00 salary increase for Ms. Maxwell. However, he advised that since all state employees received a 2.5% raise in July, her raise would be inclusive of that 2.5% and it would be folded into the \$10,000.00 (2.5% plus an additional 7.5%) to be made retroactive to July 1, 2012. **Commissioner Haynes made a motion to go on record that the TREC board concurs with the Administration that the proposed increases in Eve Maxwell's salary (\$10,000.00 that includes the 2.5% previous increase) will be retroactive to July 1, 2012; seconded by Commissioner Northern; unanimous vote; motion carried.** Commissioner Northern clarified, in case some thought the amount was excessive, that it has been a very long process (several years) to get the raise approved and implemented. To that end, Commissioner Alexander stated that perhaps to get the ball rolling on the next salary increase a motion should be made to start the process. **Therefore, Commissioner Alexander made a motion to go ahead and ask that funds be set aside in the 2013-2014 Fiscal Year to grant Ms. Maxwell another \$10,000.00 raise; seconded by Commissioner Collins; opened to discussion. After discussion, it was determined that before such a request should be made, the personnel committee should**

meet again and evaluate Ms. Maxwell after which a recommendation could be made. Commissioner Alexander and Commissioner Collins withdrew their motion. Chairman Stephenson stated that he would assign board members to the committee at the next board meeting.

The Commission members reported on concerns to them and to the Board as a whole and thanked the people of Chattanooga for their generous hospitality.

Chairman Stephenson adjourned the meeting on Thursday, October 12, 2012 at 11:28 a.m.



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MEMORANDUM

TO: TENNESSEE REAL ESTATE COMMISSION

FROM: JULIE CROPP, Assistant General Counsel

SUBJECT: OCTOBER LEGAL REPORT

DATE: October 11-12, 2012

***Any consent order authorized by the Commission should be signed by Respondent and returned within thirty (30) days. If said consent order is not signed and returned within the allotted time, the matter may proceed to a formal hearing.**

1. 2011030811
Opened: 1/3/12
First License Obtained: 6/6/03
License Expiration: 2/20/11 \$'d failed to complete req. 120 hrs to renew
E&O Expiration: 1/1/13
Type of License: Principal Broker
History: No Prior Disciplinary Action
2. 2011030812
Opened: 1/13/12
Type of License: Unlicensed
History: N/A

March 2012 Meeting:

TREC initiated complaint against Respondents (Respondent #1 is principal broker with expired license and Respondent #2 is unlicensed) based on audit conducted of vacation lodging service. The auditor's report indicates that Respondent #2 is engaged in the business of renting condo units for condo owners in a development, and Respondent #2 does not have a vacation lodging service license or a designated agent license. Further, auditor states that his attempts to make an appointment or to speak with the general

manager have been unsuccessful. From the audit, it appears that Respondent #1, the former principal broker of a nearby real estate firm which handled the sales of the condo units in the same development, may have at one point had some involvement with rentals and Respondent #2.

Respondents submitted no response. A letter, received from the real estate firm which formerly employed Respondent #1 as principal broker, stated that Respondent #1's license expired because education requirements were not completed, and therefore the firm replaced their principal broker soon after the audit. Further, the letter states that the firm had not been in contact with the Respondent #1 in several months, and the complaint letter was inaccurate as to the relationship between Respondents #1 and #2. Further, real estate firm stated that their firm is employed solely to sell (and not rent) the condo units in the condo development, and the audit of Respondent #2 has nothing to do with their real estate firm.

Recommendation: Close and flag file as to Respondent #1. As to Respondent # 2, consent order for failing to obtain a vacation lodging service firm license and failure to designate an agent for the vacation lodging service firm in violation of TCA § 62-13-104(b)(2) and (b)(3)(B)(i) with a civil penalty of \$1,000.00.

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

Since the March meeting, the Consent Order was sent to Respondent 2 with no response, and the matter was forwarded to litigation. At the litigation attorney's request, the auditor provided some additional documentation suggesting that an unlicensed entity may be operating as a vacation lodging service. However, this information is limited, and when combined with counsel's research online, the identity of the unlicensed entity is unknown (names are inconsistent on all documentation obtained but none utilizes the name of Respondent #2). Therefore, before proceeding, an auditor should be sent to obtain information/documentation regarding the correct identity of the unlicensed vacation lodging service and further documentation of unlicensed activity.

New Recommendation: Dismiss.

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

3. **2012006651**
Opened: 4/17/12
First License Obtained: 1/24/06
License Expiration: 1/23/10
E&O Expiration: 1/1/13
Type of License: Affiliate Broker
History: No Prior Disciplinary Action
**Respondent's license expired on 1/23/10*

4. **2012006652**
Opened: 4/17/12
History: No Prior Disciplinary Action – Unlicensed

August 2012 Meeting:

Complainants state that they leased a home from Respondents (both unlicensed). Complainants were relocating to Tennessee from another area of the country and selected the home to rent which was shown on Respondents' website. Complainants state that the photos that were provided of the property on Respondents' website were not the actual home Complainants rented. Complainants state that the home was very dirty and unfit to live in. It appears that Respondent 1 was a licensee whose license has expired.

Respondents submitted a response stating that they are married and Respondent 2 entered into a lease option agreement with the owner of the subject property rented by Complainants (copy of lease option agreement was provided by Respondents). Then, Respondent 2 personally entered into a rental agreement with Complainants, which did not involve Respondent 1 or their company. It appears that the maintenance and cleanliness issues addressed in the complaint were handled by attorneys for the parties. Respondent 1 states that, upon realizing that Respondent 1's real estate license had expired, Respondent 1 shut down their company and has ceased operations. Respondent 1 is in the process of taking the exam and obtaining proper licensure, at which time Respondent 1 plans to affiliate with a firm. With regard to the property that was rented by Complainants, it appears from the documentation provided that Respondent 2 was renting the property to Complainants personally pursuant to the rights granted to Respondent 2 by a lease option agreement with the property owner.

Recommendation: Dismiss.

DECISION: The Commission voted to defer this matter to allow Commissioner DiChiara to review the file and report at the September meeting.

September 2012 Meeting:

New Recommendation: Commissioner DiChiara to discuss.

DECISION: The Commission voted to defer the matter until next month to allow legal counsel time to obtain additional information.

Respondents provided additional documentation in response to request.

New Recommendation: Commissioner DiChiara to discuss.

DECISION: Due to Commissioner DiChiara's absence, this matter was deferred until the November 2012 meeting.

5. **2012010781**
Opened: 5/10/12
Type of License: Unlicensed
History: No Prior Disciplinary Action

Complaint opened against Respondent (unlicensed) based on information submitted to TREC by a licensee. The licensee submitted copies of mailers that Respondent is allegedly sending to home owners which states that Respondent is an investor and asking home owners to contact Respondent regarding any distressed or unwanted properties. Respondent's website includes listings for several properties which the licensee says are owned by individuals other than Respondent based on information obtained from the tax assessor's website.

Respondent submitted a short response stating that Respondent discloses that Respondent is acting as an investor, not a real estate licensee, and Respondent submitted copies of contracts that Respondent has with the home owners of each of the properties featured on the website. The contracts between Respondent and the homeowners indicate that Respondent has a payment arrangement with each home owner in exchange for Respondent receiving a deed to the property once the price is paid in full. In several cases, the agreement also states that Respondent will pay the taxes due on the property. Based on this documentation, the information in the file does not indicate unlicensed activity on the part of Respondent.

Recommendation: Dismiss.

DECISION: The Commission voted to accept the recommendation of legal counsel. ; 2011

6. **2012011441**
Opened: 6/4/12
First License Obtained: 5/30/03
License Expiration: 8/3/09
E&O Expiration: N/A
Type of License: Affiliate Broker (Expired)
History: No Prior Disciplinary Action

Complainant entered into a lease agreement with Respondent (unlicensed) for a property in 2010. Soon after, Complainant discovered that Respondent was not the property owner. In February 2012, after Complainant could not negotiate a purchase of the property, Complainant states that Respondent advertised the property for rent online. Complainant provided a copy of the lease agreement, which listed Respondent as the landlord as well as copies of two (2) rent checks to Respondent and a copy of the online advertisement for the property from craigslist.

Respondent submitted a response stating that Complainant is in default on the lease agreement and Respondent indicated that Respondent is pursuing that matter civilly. Further, Respondent states that Respondent previously owned the subject property, and Respondent sold the majority of Respondent's interest in the property but "...retained a financial interest in the property." A warranty deed submitted by Complainant shows that the subject property was sold by Respondent to another party in 2005. Respondent submitted a statement from the property owner which states that Respondent "...has the authority to collect rents, adjust rents, collect deposits and manage the property maintenance in general..." for the subject property, and the owner purchased the property from Respondent but Respondent retains a financial interest. Legal counsel contacted the property owner, who stated that Respondent retained a ten percent (10%) interest in the property and is paid nothing for managing the property, but there is no written agreement to that effect. Based on this information, Respondent's activities with regard to the subject property would not constitute unlicensed activity.

Recommendation: Dismiss.

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

7. **2012012041**
Opened: 7/6/12
First License Obtained: 8/31/87
License Expiration: 10/24/14
E&O Expiration: 1/1/13
Type of License: Broker
History: No Prior Disciplinary Action

8. **2012012042**
Opened: 7/6/12
First License Obtained: 4/24/81
License Expiration: 6/9/13
E&O Expiration: 1/1/13
Type of License: Broker
History: No Prior Disciplinary Action

9. **2012012043**
Opened: 7/6/12
First License Obtained: 11/9/84
License Expiration: 8/22/14
E&O Expiration: 1/1/13
Type of License: Principal Broker
History: No Prior Disciplinary Action

Complainant alleges that Complainant's sibling (a former licensee whose license is now expired), who purchased a property at an auction sale, was suffering from mental health

issues and not authorized to act for their elderly parents. Approximately six (6) months after the auction sale, a conservatorship was established for the father (now deceased). Respondents (Respondent 1 is a broker, Respondent 2 is a broker, and Respondent 3 is a principal broker – none of these Respondents are with the same firm) are involved in various ways in Complainant's sibling's attempts to purchase the property. After successfully bidding on the property at auction, Complainant's sibling signed a sales contract and paid approximately \$30,000 in earnest money toward the property. The sale did not close (the subject property later sold to another party). The estate now wants the earnest money back.

It appears that Complainant is alleging that Respondent 1 ran the auction sale of the property and took advantage of Complainant's sibling who was mentally incompetent by entering into a sales contract with Complainant's sibling to purchase the property. Respondent 2 is Complainant's sibling's ex-husband, who appears to have been involved simply because Complainant's sibling called Respondent 2 after becoming the winning bidder on the property wanting Respondent 2 to be the buyer's broker. Respondent 2 was unable to receive a commission as the buyer's broker because Complainant's sibling did not register Respondent 2 as the buyer's broker at least 48 hours prior to the auction sale, as required by the sale's terms. Respondent 3 appears to have come into the picture after the auction sale contract fell through on the subject property and attempted to submit an offer on the subject property on the part of Complainant's father and sibling, which was not accepted and then the subject property sold to someone else. Complainant states that Respondents "...were trying to facilitate a real estate transaction with persons who were physically, mentally and emotionally unstable and take advantage..." of Complainant's sibling and parents by knowing of Complainant's sibling's mental health issues and parents' elderly age and entering the sales contract with them.

Respondent 1 submitted a response through an attorney stating that Complainant's allegations that Respondent 1 knew about and took advantage of the instabilities of Complainant's sibling and parents at the time of the auction sale are unsubstantiated. Further, Respondent 1 states that the allegations are false, and there was no indication that Complainant's sibling was incompetent to enter into a contract due to instability. Respondent 1 also states that Respondent 1 was not acting as a real estate licensee at the time of the auction sale, but was attending the auction sale due to Respondent 1's ownership in the auction firm (Respondent 1 is not an auctioneer and did not participate in the auction). Respondent 1 states that the auction sale's terms included the requirement that any bidder represented by a real estate licensee was required to register the licensee at least 48 hours prior to the auction in order to earn a commission. Because Complainant's sibling registered without a broker and bid without a broker and first referenced Respondent 2 as Complainant's sibling's broker at the time of contract execution after the auction, Respondent 2 would not receive a commission, which Respondent 1 states made Complainant's sibling agitated and hostile. Later that day, Respondent 1 says Complainant's sibling executed the sales contract (with Complainant's sibling listed as buyer) and paid the earnest money by personal check which was dishonored, and Complainant's sibling later provided a cashier's check (both checks were from Complainant's sister). At this time, Respondent 1 states that there was no indication

that the funds came from Complainant's father or that he was involved in the purchase. When Complainant's sibling was unable to close on the property on the date specified in the contract due to an inability to get the necessary funds, Complainant's sibling provided a power of attorney signed by Complainant's parents allowing the sibling to serve as attorney in fact, and Complainant's sibling signed a second contract on behalf of Complainant's father so that financing could be obtained to complete the sale. Complainant's sibling and father did not obtain the necessary funds to close on the property. Both auction sale contracts provided that the earnest money was nonrefundable.

Respondent 2 is Complainant's sibling's ex-spouse, who says that Complainant's sibling only wanted Respondent 2 to be the buyer's broker on the transaction due to child support which Complainant's sibling owed to Respondent 2. Respondent 2 also submitted a response stating that Respondent 2 was not aware of the auction sale until notified by Complainant's sibling after the auction was over although Complainant's sibling knew about the auction sale several weeks beforehand. Respondent 2 also states that Respondent 2 spoke with Complainant's father following the sale, and Complainant's father understood why he was providing the money for the earnest money and knew what he was doing in his involvement with the purchase. Respondent 2 states that Complainant's father and sibling have bought property together before this incident, and Complainant and family tried to have Complainant's father declared incompetent to get the earnest money back. Respondent 2 denies that Respondents took advantage of anyone.

Respondent 3 also submitted a response stating that Respondent 3 met Complainant's sibling shortly after the sale of the subject property fell through, and Complainant's sibling informed Respondent 3 of the situation and the loss of the earnest money and asked Respondent 3 to help recover the earnest money by drawing up a purchase and sale agreement for Complainant's sibling to sign pursuant to the power of attorney signed by Complainant's father and to present to the seller and Respondent 1 (who had listed the property for sale after the auction contracts fell through). Respondent 3 told Complainant's sibling that Respondent 3 would have to speak with Complainant's father and receive instructions to do this, and he would have to sign the contract. This was done, the contract was presented but was never accepted and became null and void.

The information contained within the file does not appear to indicate a violation of TREC's statutes and/or rules on the part of Respondents.

Recommendation: Dismiss.

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

10. 2012012121

Opened: 7/10/12

First License Obtained: 11/18/96

License Expiration: 12/31/06
E&O Expiration: Uninsured
Type of License: Principal Broker
History: No Prior Disciplinary Action
Respondent's license expired on 12/31/06

TREC opened complaint against Respondent (former principal broker – license expired 12/31/06) based on Respondent's operation of a website for a limited liability company (LLC) which is represented on the website as a hotel brokerage. Specifically, the website states that the LLC "...is a licensed real estate agency in the states of Alabama, Arkansas, Kentucky, Mississippi, Tennessee, Texas, Georgia, Louisiana, and Oklahoma." At one point, the LLC was licensed as a Tennessee real estate firm, but the firm's license expired on December 31, 2006 along with Respondent's license.

Respondent submitted no response to the complaint, and the complaint was returned "unclaimed."

Recommendation: Consent Order for \$1,000.00 for unlicensed activity in violation of T.C.A. § 62-13-301 which includes an order to cease and desist unlicensed activity.

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

11. 2012012371
Opened: 6/26/12
Type of License: Unlicensed
History: No Prior Disciplinary Action

Complaint submitted to TREC against Respondent (unlicensed) by real estate licensee. Complainant alleges that Respondent, a wildlife forester, has shown properties and engaged in negotiations for properties which are listed as "for sale by owner." Complainant did not provide any documentation other than Respondent's business card, which states that Respondent is a "certified forester" and "associate wildlife biologist."

Respondent submitted a response stating that Respondent manages hunting and timber land and acts as a "traveling care taker" for rural property in several states. Respondent states that Respondent has always tried to be very careful not to let Respondent's activities overlap into real estate activities. Respondent states that most of the work involves planting food plots, mowing, spraying, grading, mapping, conducting soil tests, and Respondent has a forestry registration. Respondent also states that Respondent assists clients with assessing the properties from a wildlife and timber management standpoint. For Respondent's services, Respondent states that Respondent is paid by the hour, and Respondent denies that Respondent is paid to help buy or sell property. Respondent states that Respondent has met with Complainant regarding the issue and Respondent thinks that any misunderstandings/miscommunications have been cleared up.

Though the information provided is not sufficient to evidence unlicensed activity on the part of Respondent, Respondent might benefit from a letter of instruction regarding what types of activities require a real estate license.

Recommendation: Letter of instruction regarding the definition of “broker” within T.C.A. § 62-13-102(4)(A) and (B), § 62-13-103 titled “broker or affiliate identified by single act,” and § 62-13-301, which prohibits unlicensed activity.

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

12. **2012012841**
Opened: 7/2/12
First License Obtained: 11/6/03
License Expiration: 7/13/13
E&O Expiration: 9/15/13
Type of License: Affiliate Broker
History: No Prior Disciplinary Action

13. **2012012842**
Opened: 7/2/12
First License Obtained: 8/10/04
License Expiration: 8/19/13
E&O Expiration: 9/5/13
Type of License: Affiliate Broker
History: No Prior Disciplinary Action

14. **2012012843**
Opened: 7/2/12
First License Obtained: 4/8/98
License Expiration: 7/7/13
E&O Expiration: 9/5/13
Type of License: Principal Broker
History: No Prior Disciplinary Action

Complainants purchased a home from Respondents 1 and 2 (both affiliate brokers, also spouses who served as owners/agents) in April 2012. Respondent 3 is the principal broker of Respondents 1 and 2. When Complainants took possession of the home, they state that they immediately noticed a strong odor in the kitchen and found the area under the kitchen sink to be very wet with mold. When Complainants removed the dishwasher, they state that they discovered the same conditions and a piece of sheetrock was cut out and nailed back up. Further Complainants allege that there was “fresh concrete surrounding a pipe that leads to the guest bath” and “the main shut off valve to the house has been almost completely mudded over.” Complainants state that Respondents 1 and 2 answered “no” in their residential property disclosure to the questions of whether there were any past or present water intrusion(s) and whether sellers were aware of any

defects/malfunctions in the plumbing system. Further, Complainants state that they found animal feces in a cabinet and discovered multiple rats, one of which had eaten a hole in the dishwasher tubing. Complainants state that their agent was not very helpful, stating that Complainants were the homeowners, and Respondent 3 has not been responsive. Complainants state that they paid an inspector to inspect the home, and at that time, Complainants allege that the inspector told Respondent 2 to “spray bleach on the mold” but the report did not indicate the presence of mold or rats. Complainants state that they consulted several parties regarding the water/mold issue, all of which stated the issue had been going on for a long time. Complainants attached memos from several companies. The first memo noted areas of saturation with blistered paint which had occurred “for a significant period” with an odor associated with microbial growth and recommended investigation “to ascertain microbial contamination, if any.” The second indicated “elevated moisture readings” and visible moisture and recommended a leak detection company to locate/repair leaks and an environmental hygienist to conduct air and surface samplings. The third included an initial assessment based on observations of wetness in multiple areas with evidence and smell of mold growth in some areas.

Respondents submitted responses. Respondents stated that Complainants owe Respondents 1 and 2 money for amounts spent by Respondents 1 and 2 above the contractually-agreed upon amount for upgrades/repairs as well as the sale of some furniture. Respondents state that a home inspection was completed by an inspector chosen by Complainant who used a thermal imaging camera to detect moisture. The inspector noted a leak under the kitchen sink, which was the first time Respondents 1 and 2 were aware of this leak, and the presence of mold was never mentioned in the report or at any other time. Respondents state that the inspector told Respondent 2 to spray the cabinet with bleach as a mold preventative. Respondents also state the presence of moisture/mold in a hall bathroom was not referenced in the inspector’s report. Further, Respondents state that Complainants were in the home frequently from the time of purchase until they moved in and never referenced a smell in the home. Respondents also state that Respondents 1 and 2 were not aware of sheetrock being removed and nailed back up behind the dishwasher, as the dishwasher is the original dishwasher. Respondents also state that their understanding of the property disclosure question regarding past/present water intrusions pertains to rain water coming in from outside. As to the property disclosure question regarding knowledge of defects/malfunctions in the plumbing system, Respondents state that Respondents 1 and 2 were not aware of any current defects/malfunctions to the system at the time of the completion of the property disclosure form. Respondents state that the fresh concrete referenced by Complainants was in a guest bath upstairs bathroom approximately five (5) months before the property disclosure form was completed. As to the allegation of rats, Respondents state that Respondents 1 and 2 had a pest contract and were not aware at any time of a rat infestation, and Complainants cut trees down after moving in. The documentation contained within the file does not prove any misrepresentation or knowledge and failure to disclose on the part of Respondents.

Recommendation: Dismiss.

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

15. 2012013191
Opened: 6/21/12
First License Obtained: 1/24/12
License Expiration: 1/23/14
E&O Expiration: 1/1/13
Type of License: Affiliate Broker
History: No Prior Disciplinary Action

TREC opened complaint against Respondent (affiliate broker) based on newspaper article which announced that Respondent's professional license for another profession had been revoked earlier this year pursuant to Respondent's conditional guilty plea, which was based on two (2) disciplinary complaints which had been filed against Respondent's other professional license. At the time Respondent applied for licensure with TREC, there was a disclosure of these two (2) pending complaints as part of Respondent's prior disciplinary history in Respondent's other profession, and Respondent was granted licensure by TREC.

Respondent submitted a response stating that Respondent explained the prior disciplinary complaints against Respondent at the time of license application. After a license was granted to Respondent by TREC, Respondent states that no hearing on these other two (2) disciplinary complaints was held, but instead Respondent's attorneys entered into an agreement with the other licensing agency for this outcome regarding Respondent's other professional license. Respondent states that no additional complaints have been filed against Respondent since the time of licensure application with TREC.

Notwithstanding the discipline taken by the other professional board, Respondent has conveyed (and it is believed) that Respondent is attempting to make a fresh start with a new profession in real estate. Based on the information in the file, it does not appear that Respondent provided false information at the time of licensure application to TREC. Therefore, it would not appear that this constitutes a disciplinable offense under TREC's statutes and/or rules.

Recommendation: Dismiss.

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

16. 2012013201
Opened: 7/10/12
First License Obtained: 8/13/10
License Expiration: 8/12/12
E&O Expiration: N/A
Type of License: Time Share Salesperson

History: No Prior Disciplinary Action

Complaint opened against Respondent (time-share salesperson whose license is currently expired and has been broker released) based on information received by TREC regarding a criminal matter involving Respondent. Just over a month after Respondent applied for licensure with TREC in August 2010, Respondent entered into a memorandum of understanding which provided that criminal charges which had been filed against Respondent would be suspended for two (2) years if Respondent completed certain specified terms. Recent information yielded that those terms have been completed.

Respondent submitted a response denying that Respondent was untruthful on the application because Respondent has never pled guilty or been convicted of a criminal offense. Based on the information contained within the file, Respondent appears to have honestly responded “no” to question (5) which states “Have you ever pled guilty, pled nolo contendere, or been convicted of any criminal offense? (Do not include traffic violations.)” However, information obtained from another board where Respondent holds a license indicates that Respondent had a disciplinary complaint filed with that board, which Respondent had received and to which submitted a response approximately four (4) months prior to submitting Respondent’s application to TREC. Therefore, Respondent’s answer of “no” to question (4) of the application, which stated “Have you ever had a complaint filed against you with any regulatory agency or with any court?” was a misrepresentation. However, Respondent’s license with TREC is currently expired.

Recommendation: Close and flag.

DECISION: The Commission voted to accept the recommendation of legal counsel and stated that, if Respondent reapplies for licensure, Respondent must appear before Commission for informal appearance prior to licensure.

17. **2012013791**
Opened: 7/12/12
First License Obtained: 4/1/99
License Expiration: 10/29/14
E&O Expiration: 1/1/13
Type of License: Firm
History: No Prior Disciplinary Action

Complaint opened by TREC against Respondent (firm) for Respondent’s failure to satisfy an Agreed Citation sent to Respondent for operating an unlicensed branch office. Specifically, the Agreed Citation is based on an auditor’s report which states that one of the affiliated licensees with Respondent was also operating a limited liability company (LLC) at the location providing property management services which was not licensed. There was no documentation with the audit report. This citation and complaint was opened against Respondent, which is a firm. Upon obtaining supporting

information/documentation from an auditor regarding the existence of an unlicensed property management company, this complaint would be more appropriate if opened against Respondent's principal broker and any affiliated licensee who operates the unlicensed property management company.

Recommendation: Dismiss.

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

18. 2012014461

Opened: 7/18/12

First License Obtained: 12/9/04

License Expiration: 3/30/13

E&O Expiration: 1/1/13

Type of License: Principal Broker

History: No Prior Disciplinary Action

Complainant alleges that Complainant had a contract with potential buyers to sell Complainant's house which stated that the buyers had good credit and Respondent (principal broker) stated that the buyers had good credit. Complainant states that Respondent said Respondent ran a credit check. Complainant also states that the buyers were related to someone in Respondent's office. When the buyers were not approved, Complainant states that Complainant was told that the buyers needed an extension because the mortgage company was behind on processing loans, that Complainant was asked to carry a loan for the buyers, and then the buyers were denied financing. Complainant alleges that Respondent misled Complainant regarding the buyers' credit condition.

Respondent submitted a response stating that Respondent received a pre-approval letter for the potential buyers of Complainant's home. Respondent denies stating that Respondent ran the buyers' credit, but states that Respondent showed Complainant a copy of the pre-approval. Respondent states that Respondent was not given any reason for the loan denial other than the mortgage company was still gathering information to complete the file, which Respondent states was the reason conveyed to Complainant for the contract extension. Respondent attached a letter from the mortgage company which stated that when the pre-approval was given, the mortgage company representative thought the loan would close and the mortgage company representative told Respondent same when the pre-approval was provided. According to the mortgage company representative, an issue came up when the file was sent to the underwriter for final approval, who asked for more information which was provided. Then, the underwriter would not approve the loan due to a "recent blemish" on the buyers' credit, and the underwriter wanted to see a longer period of clean credit before approval. The documentation suggests that it was thought by the mortgage company that the buyers would qualify.

However, with regard to the allegation that one of the affiliates in Respondent's office was related to the buyers, additional information was obtained that the buyers, who were unrepresented, were the father and mother in law of an affiliated licensee at Respondent's firm. This affiliated licensee appears to have signed some of the documents related to the subject transaction on behalf of Respondent. Though it appears that someone informed Complainant's spouse of the relationship verbally, there does not appear to be any kind of written disclosure with regard to this relationship. Therefore, complaints should probably be opened against the affiliated licensee and Respondent and sent out for a written response and explanation due to this potential disclosure issue.

Recommendation: Dismiss.

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

19. 2012016531

Opened: 8/3/12

First License Obtained: 3/24/08

License Expiration: 3/23/13

E&O Expiration: N/A

Type of License: Time-Share Registration

History: No Prior Disciplinary Action

20. 2012016532

Opened: 8/3/12

First License Obtained: 7/21/00

License Expiration: 2/7/13

E&O Expiration: 7/13/13

Type of License: Firm

History: 201001012 – Closed \$1,000 CO (failure to respond)

Complainants and their daughter are time-share owners who attended an owners' update meeting held by Respondents (Respondent 1 is a time-share registration and Respondent 2 is a firm). There, Complainants and their daughter traded in several of their contracts and purchased more points in exchange for a single contract with more points. At that time, Complainants state they were told that they would get a first right of refusal, meaning that Respondents would buy the points back if Complainants decided to sell in the future. Later, when Complainants and their daughter tried to sell the time-share back, they were told there was no buyback program. Complainants want their points back the way they were before the purchase/trade.

Respondents submitted a response stating that Complainants have been owners for over thirty (30) years with seventeen (17) additional purchases since that time. Respondents state that Complainants and their daughter traded their existing contracts and utilized the equity to purchase a new single contract. Respondents claim that the first right of refusal meant that if Complainants desired to sell their time-share, Respondents would have the

opportunity to purchase first, but that Respondents had no obligation to purchase the ownership. This is referenced in the documents signed by Complainants. Respondents stated that, though there did not appear to be any inappropriate activity, Respondents have contacted and will continue to work with Complainants regarding cancelling the subject contract and reinstating the traded contracts. There appears to be nothing in the file to substantiate a violation by Respondents of TREC's laws and/or rules.

Recommendation: Dismiss.

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