



**STATE OF TENNESSEE**  
**DEPARTMENT OF COMMERCE AND INSURANCE**  
**TENNESSEE REAL ESTATE COMMISSION**  
**TENNESSEE REAL ESTATE COMMISSION MINUTES**

**January 7, 2015**

The Tennessee Real Estate Commission convened on Wednesday, January 7, 2015 at 9:00 a.m. in Meeting Room 1A of the Davy Crockett Building, 500 James Robertson Parkway, Nashville, Tennessee 37243. The following Commission Members were present: Chairman John Griess, Vice-Chairman Janet DiChiara, Commissioner Grover Collins, Commissioner Diane Hills, and Commissioner Austin McMullen. Absent from meeting are Commissioner Marcia Franks, Commissioner Gary Blume, and Commissioner Wendell Alexander; however they joined the meeting via telephone during the discussion of the comments to the Proposed Rules. Others present: Executive Director Eve Maxwell, and Assistant General Counsel Keeling Baird, Paralegal Jennaca Smith, and Administrative Secretary Kimberly Smith.

Ms. Maxwell read the following statement into the record: This meeting's date, time, and location have been noticed on the TN Real Estate Commission's website, included as part of this year's meeting calendar, since August 12, 2014. Additionally, the agenda for this month's meeting has been posted on the TN Real Estate Commission's website since Wednesday December 30, 2014. Also, this meeting has been notice on the tn.gov website since Wednesday, December 30, 2014.

**Commissioner McMullen made a motion to approve the January 2015 agenda; seconded by Commissioner Collins; motion carried.**

**Commissioner McMullen made a motion to adopt Robert Rules of Order as the procedural manual as the set of rules which will be used during the meetings; seconded by Commissioner Collins; motion carried.**

**Commissioner DiChiara made a motion to approve the December 2014 minutes; seconded by Commissioner Hills; Commissioner McMullen abstains since he was not present during the December meeting; motion carried.**

At 9:25 a.m. Commissioner Marcia Franks, Commissioner Gary Blume, and Commissioner Wendell Alexander joined the meeting via the telephone for the discussion and formulation of responses to the public comments submitted in reference to the Proposed Rules.

Prior to the meeting, each Commissioner was sent a compilation of the specific comments received and each had an opportunity to review those comments in preparation for the meeting. During the meeting, the Commission discussed each public comment thoroughly and then formulated a response to that public comment. The Commission adopted some revisions to the rules based upon the public comments submitted.

The Proposed Rules which were Revised in response to the public comments and approved by the Commission to move forward in the rulemaking process are as set forth below.

**PLEASE NOTE: THESE PROPOSED RULES ARE NOT IN EFFECT AT THIS TIME. THE PROPOSED RULES AS SET FORTH IN THESE MINUTES ARE ONLY INCLUDED TO REFLECT THE INTENTIONS OF THE COMMISSION MEMBERS AS TO THE PROPOSED RULES AND ARE SUBJECT TO FURTHER CHANGES BY THE ATTORNEY GENERAL'S OFFICE AND THE GOVERNOR'S OFFICE PRIOR TO BECOMING FINAL AND EFFECTIVE. THIS PROCESS COULD TAKE SEVERAL MONTHS TO BE COMPLETED. THESE PROPOSED RULES SHOULD NOT NECESSARILY BE RELIED UPON WHEN MAKING DECISIONS UNTIL SUCH TIME AS THEY ARE FINAL AND BECOME EFFECTIVE, WHICH WILL BE AT THE TIME THE ENTIRE RULEMAKING PROCESS IS COMPLETED.**

Listed below are the Proposed Rule Reference Numbers and actions taken:

1260-01-.18. No Change  
1260-01-.19. No Change  
1260-01-.20. No Change  
1260-01-.21. No Change  
1260-02-.02. No Change (1)(2)(3)(5)(6)(7)(8)  
1260-02-.02. Change (4)  
1260-02-.09. No Change (2)(3)(4)(6)(7)(8)(10)(11)(12)(13)(14)  
1260-02-.09. Change (1)(b);(5);(9)  
1260-02-.12. No Change (2)(4)(6)  
1260-02-.12. Change (1);(3);(5)  
1260-02-.39. No Change  
1260-02-.40. No Change  
1260-02-.41. No Change

**1260-02-.02(4) When a licensee terminates his affiliation, he shall neither take nor use any property listings or buyer representation agreements secured through the firm, unless specifically authorized by the principal broker in writing.**

**1260-02-.09(1)(b) Money belonging to others received by a licensee who is acting as an agent or facilitator in a real estate transaction;**

**1260-02-.09(5) Where a contract authorizes a principal broker to place trust money in an escrow or trustee account, the principal broker shall clearly specify in the contract**

**1260-02-.09(5)(b) the name and address of the person or firm who will actually hold the trust money.**

**1260-02-.09(9) Absent a demonstration of a compelling reason, earnest money shall be disbursed, interpleaded or turned over to an attorney with instructions to interplead within twenty-one (21) calendar days from the date of receipt of a written request for disbursement.**

**Rule 1260-02-.12(1) All advertising, regardless of its nature and the medium in which it appears, which promotes either a licensee or the sale or lease of real property, shall conform to the requirements of this rule. The term “advertising” for the purposes of this rule, in addition to traditional print, radio and television advertising, also includes, but is not limited to, sources of communication available to the public such as signs, flyers, letterheads, email signatures, websites, social media communications and video or audio recordings transmitted through the internet or broadcast streaming. Advertising does not include promotional materials that advertise a licensee such as hats, pens, notepads, t-shirts, name tags, business cards and the sponsorship of charitable and community events.**

**1260-02-.12(3)(b)(1) The firm name must be the most prominent name featured within the advertising, whether it be by print or other media;**

**1260-02-.12(3)(b)(2) The firm’s telephone number shall be the same size or larger than the telephone number of any individual licensee or group of licensees.**

**1260-02-.12(3)(c) Any advertising which refers to an individual licensee must list that individual’s name as licensed with the Commission.**

**1260-02-.12(3)(f) No licensee shall advertise in a false, misleading, or deceptive manner. False, misleading, and/or deceptive advertising includes, but is not limited to, the following:**

**1. Any licensee advertising which includes only the franchise name without including the firm name;**

**2. Licensees who hold themselves out as a team, group or similar entity within a firm who advertise themselves utilizing terms such as Real Estate, Real Estate Brokerage, Realty, Company, Corporation, LLC, Corp., Inc., Associates, or other similar terms that would lead the public to believe that those licensees are offering real estate brokerage services independent of the firm and the principal broker;**

**3. Any webpage that contains a link to an unlicensed entity's website where said entity is engaged or appears to be engaged in activities which require licensure by the Commission.**

**1260-02-.12(5) Internet Advertising. In addition to all other advertising guideline within this rule, the following shall also apply with respect to internet advertising by licensees including, but not limited to, social media:**

**After voting separately to adopt each revision to the Proposed Rules as the revision was made, the Commission voted to adopt each response to the public comments to the Proposed Rules and then voted to approve all of the revisions as a whole made to the Proposed Rules and voted to send the Proposed Rules as Revised to the proper governmental entities for review and approval.**

Chairman Griess asked the Commission if it would agree to discuss one of the matters on the Education Report, specifically the matter concerning the 2015-2016 CORE Course submitted by Jim Gibbs, prior to the commencement of the Legal Report. Chairman Griess noted that Mr. Gibbs had been in attendance all day and with the length of the reports of legal counsel, it was possible that the Commission might not consider the Education Report until the following day. The Commission agreed to discuss the 2015-2016 CORE Course submitted by Mr. Gibbs. Commissioner Hills had reviewed Mr. Gibbs 2015-2016 CORE Course and presented her comments about the course. **After discussion, Commissioner DiChiara made a motion to approve the 2015-2016 CORE Course submitted by Jim Gibbs only if Mr. Gibbs made the revisions and corrections noted by Commissioner Hills and that the entire complete course package was approved by Commissioner Hills; motion seconded by Commissioner McMullen; motion passes unanimously.**

Assistant General Counsel Robyn Ryan addressed the Commission to discuss an appeal which had been filed in connection with Docket No. 12.18-127090J. The appeal was filed by the Respondent Kevin A. Gheens. Ms. Ryan noted that this was a case involving matters which the Commission had decided could be heard by an Administrative Law Judge sitting alone. Ms. Ryan asked the Commission how it would like to proceed in the appeal matter, since procedurally, the Commission is required to permit the filing of briefs, with the appellant filing the brief, after the receipt and review of which, the State would be required to file a brief. Ms. Ryan advised that review of the briefs by one Commissioner or by the whole Commission was required.

**Commissioner Hills made a motion that Commissioner McMullen review all briefs submitted; that the initial brief would be due within 30 days from January 7, 2015 and that the response brief would be due within 60 days after receipt of the initial brief. Commissioner McMullen has a 60 day period after receipt of both briefs to review the briefs and make a decision. Commissioner McMullen shall make a proposal to the Commission at the next regularly scheduled Commission meeting following the expiration of Commissioner McMullen's 60 day review period. Commissioner DiChiara seconded the motion; motion passes 5 to 0.**

**LEGAL REPORT, KEELING BAIRD, ASSISTANT GENERAL COUNSEL**

At the beginning of the text of each legal report (complaint report) the following text is inserted and Ms. Baird 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.”

Attached to the end of these minutes is a copy of the legal report with all decision indicated.

MEMORANDUM

TO: TENNESSEE REAL ESTATE COMMISSION  
FROM: KEELING BAIRD, Assistant General Counsel  
SUBJECT: JANUARY LEGAL REPORT  
DATE: January 7, 2014

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**\*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. **2013013011**  
**Opened: 7/24/13**
- First License Obtained: 2/6/04**
- License Expiration: 3/29/14**
- E&O Expiration: 1/1/15**
- Type of License: Broker**
- History: No history of disciplinary action.**

***December 2014 Meeting:***

There was a motion and a second to dismiss the following matter, but the Commission did not vote on the motion.

***October 2013 Meeting:***

*Complainant attended an auction for farm land property that was advertised by Respondent (broker) as an absolute auction. Complainant states that, before the auction began, Respondent told attendees that it was a confirmation sale and the advertisement had included a mistake. Complainant states that only one bid was made during the auction over the phone, but the bid was not accepted by the owner because it did not reach the reserve. Complainant states that, after the auction was over, Respondent approached Complainant about buying a tract of the property. Complainant alleges that this was a sale agreement and not auction proceedings. Complainant alleges that Complainant and Respondent came to an agreement about price and the back of the contract described where the property line was to be located. Complainant alleges a contract was signed and was contingent on when the land was surveyed if property line would be as Complainant had requested. Complainant states that Complainant gave Respondent a deposit check with the agreement that once the property was surveyed and the property line could not be worked out as Complainant wanted it, then deal would be off and the deposit money would be returned. Complainant states that Complainant did sign a contract but was not given a copy immediately. Complainant went back to property a few days later and was told by a neighbor that fencing around the property was not included in the sale because the fence was actually put on the neighbor's property and did not belong to the owner. Complainant alleges that Complainant was told that the fencing was part of the owner's property by Respondent. Complainant alleges that the surveying pins on the property did not match what Complainant was told by Respondent. Complainant states that Complainant confronted Respondent with inconsistencies concerning the property. Complainant states that Respondent admitted the inconsistencies and states that Respondent claimed to have forgotten about these details. Complainant states, at that time, Complainant asked Respondent for Complainant's deposit money to be returned. Complainant states that Complainant was told by Respondent that Respondent could not return the deposit check because the owner of the property told Respondent not to do so. Complainant alleges that Respondent and the property owner misrepresented details of the auction in advertisements and misrepresented details of the property that was to be auctioned. Complainant also attached a copy of a civil complaint which Complainant filed against the property owner, Respondent, and Respondent's auction firm.*

*Respondent submitted a response through an attorney stating that the Complainant previously filed an identical complaint with the Tennessee Auctioneer Commission. Respondent states that, although Respondent is both a licensed real estate broker and auctioneer, the transaction at issue was an auction sale, and Respondent was acting at all relevant times as an auctioneer and states that this complaint filed with TREC was improper. Respondent attached a copy of the Real Estate Auction Contract between Respondent and the property owner as well as the Real Estate Auction Purchase and Sale Agreement. Respondent states that the auction started with one bid and after several minutes of requesting bids, Respondent received no higher bids, therefore the reserve had not been met. With the owner's consent, Respondent then offered to parcel the property for the purpose of trying to auction off at least part of the property, but there were no bids made and the auction was adjourned with Respondent offering for attendees to meet with Respondent personally later if they were interested in making a bid. Respondent states that during the auction, it was made clear that any sale was subject to owner confirmation. Respondent states that, with regard to the advertisement referenced by Complainant listing the auction as absolute, said advertisement was never approved by Respondent, and the newspaper wrote a letter indicating that the running of the ad was due to the newspaper's inadvertence. Respondent states that after the initial open bidding session was adjourned, Complainant approached Respondent about purchasing a smaller tract of land. Respondent states that, after discussions between Complainant, the property owner, and Respondent, that Complainant and the property owner entered into a Real Estate Auction Purchase and Sale Agreement, and Complainant gave a "non-refundable deposit." Respondent states that Complainant has participated in multiple auctions and is aware that virtually every auction sale includes a non-refundable deposit and in fact has purchased property from Respondent at auctions in the past. Respondent states that the property was surveyed twice to come to the agreement of what Complainant wanted as far as the property line. Respondent states Respondent and the property owner met all terms of the contract, but Complainant was not satisfied with the surveys and refused to finalize the purchase. The response states that Respondent never told Complainant that the deposit money would be returned to Complainant if the agreement was not finalized. The response states that Respondent and the property owner complied with all obligations in relation to the sale, and Complainant refused to abide by the sale agreement.*

*Currently, there is active litigation between Complainant, the property owner, Respondent, and Respondent's auction firm regarding the subject matter of this complaint. Although this appears to be more closely tied to an auction situation, the civil complaint alleges violations of the Broker Act on the part of Respondent. It is likely that more information will be uncovered through the course of the civil litigation which could be pertinent to the Commission's determination of this matter.*

***Recommendation: Consent Order for litigation monitoring.***

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

***\*Chairman Stephenson abstained from the vote on this matter\****

*Respondent's attorney provided additional information that an Agreed Order of Compromise and Dismissal was filed in Chancery Court on October 28, 2014. The settlement agreement between the parties is confidential and was not provided to legal counsel.*

**Recommendation: Dismiss.**

**DECISION: Counsel voted to accept the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

2. **2014014711**  
**Opened: 7/10/14**  
  
**First License Obtained: 5/28/09**  
  
**License Expiration: 5/27/15**  
  
**E&O Expiration: 2/4/15**  
  
**Type of License: Affiliate Broker**  
  
**History: No history of disciplinary action.**
3. **2014014712**  
**Opened: 7/10/14**  
  
**First License Obtained: 1/28/08**  
  
**License Expiration: 1/27/16**  
  
**E&O Expiration: 2/4/15**  
  
**Type of License: Affiliate Broker**  
  
**History: No history of disciplinary action.**
4. **2014014713**  
**Opened: 7/10/14**  
  
**First License Obtained: 9/17/96**  
  
**License Expiration: 1/23/16**  
  
**E&O Expiration: 2/4/15**  
  
**Type of License: Principal Broker**  
  
**History: No history of disciplinary action.**



### **December 2014 Meeting:**

*Complainant (principal broker) discovered that a property previously viewed with Complainant's client (buyer) was listed back on the market as active. Complainant emailed the offer to Respondent 2 (affiliate broker) and called to ensure it was received. Complainant states that Respondent 2 advised that the offer was accepted and submitted through software specializing in short sales and foreclosure, and Complainant requested copies. Complainant states that Complainant had not heard back from Respondent 2 in a couple of days, so Complainant contacted the other listing agent, Respondent 1 (affiliate broker), who stated that Respondent 1 was unaware of any offers that had been submitted. Complainant states that Respondent 1 advised it went to either an auction or foreclosure. Complainant states that Respondent 1 told Respondent 2 to notify Complainant of the foreclosure, and Respondent 1 told Complainant that the offer was too low. Complainant requested that Respondent 2 call to speak with Complainant regarding re-presenting the offer to the bank, but states that neither Respondent called back. Complainant states that Respondents failed to furnish a copy of the contract documents that Respondent 2 advised was accepted and uploaded. Complainant also alleges that Respondents failed to advise that the property was foreclosed.*

*Respondent 1 submitted a response denying the allegations stating that Complainant called the office notifying Respondent 1 that an offer would be submitted soon. Respondent 1 submitted the offer to sellers within an hour of receiving it stating Respondent 1 was not sure if this was a good deal because of the pending foreclosure auction. Respondent 1 states that the seller was routinely late in returning signed documents, and Respondent 1 never received a counter-signed contract from seller. Respondent 1 states Respondent 1 called the bank, and the bank stated that the purchase price was too low and the timeframe is too short, and Respondent 1 states Respondent 1 relayed the information to Complainant who would speak with the buyer. Respondent 1 states the listing was removed after the foreclosure sale. Respondent 1 states that Complainant called after the foreclosure auction took place, and Respondent 1 acknowledged the offer but stated it had not been uploaded into the software program. Respondent 1 states that the sale of this property was tough, and there was a lot of communication with the bank. Respondent 1 states that Respondent 1 tries to address business in a compliant and timely manner, and Respondent 1 believes Complainant is stretching the truth in order to make a complaint. Respondent 1 further states that Complainant screamed at Respondent 1 and called Respondent 1 incompetent, which does not reflect the business ethics of a realtor.*

*Respondent 2 acknowledge receipt of the offer and states that it was immediately forwarded to Respondent 1. Respondent 2 states that Respondent 2 does not work in the software program and remembers Complainant stating that Complainant was familiar with the program. Respondent 2 states that Complainant was rude when Respondent 2 advised that Respondent 1 was handling the listings and the offer would be forwarded to Respondent 1. Respondent 2 denies stating the offer was accepted or uploaded to the software program. Respondent 2 also denies receiving phone calls or voicemails regarding this listing. Respondent 2 further states that the listing was removed from MLS as soon as information was received from the bank that the property was to be auctioned. Respondent 2 further states that Complainant currently has the home under contract per MLS.*

*Respondent 3 (principal broker) stated that Respondent 3 investigated the transaction upon receipt of the complaint and stated Complainant never contacted Respondent 3 to assist Complainant. Respondent 3 states that Respondent 1 contacted the bank upon receipt of the offer and stated that they would not accept it at that price and it was too late to stop the foreclosure auction. Respondent 3 states that there may have been a failure to communicate and states that Complainant may have been hard to talk with on the phone.*

**Recommendation: Dismiss**

**DECISION:** *The Commission voted to defer this matter to the January Commission meeting for review by Commissioner Alexander.*

**New Recommendation:** Commissioner Alexander to discuss.

**NEW DECISION:** The Commission authorized Dismissal.

**Commissioner Collins made a motion to accept Commissioner Alexander suggestion to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

5. 2014016941  
Opened: 7/26/14

**First License Obtained: 12/28/87**

**License Expiration: 9/12/16**

**E&O Expiration: 1/1/15**

**Type of License: Broker**

**History: No history of disciplinary action.**

6. 2014016942  
Opened: 7/26/14

**First License Obtained: 5/19/99**

**License Expiration: 1/21/15**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: 201101630 (\$1, 000 Consent Order - failure to supervise), 201302212 (formal hearing pending – failure to supervise), 201400399 (formal hearing pending – failure to supervise)**

A complaint was filed by a potential buyer who placed an offer on a home, and Respondent 1 represented the seller. Complainant states that a home inspection was completed and a proposal for repairs was sent on May 8, 2014, but did not receive confirmation that the repairs were made until the scheduled closing day. Complainant states that during the final walk through, it was discovered that only two (2) of the six (6) repairs were done. Complainant states that when Complainant's agent contacted Respondent 1 regarding the repairs, Respondent 1 stated that closing would likely not occur because seller was not aware that seller was to pay \$7,050 in closing costs. Complainant states that they offered a three-way split of closing costs, but Respondent 1 denied stating that the appraisal was for \$11,000 more than the offer, so Complainant should be able to pay closing costs. Complainant states that an unnamed person called the mortgage company claiming representation of Complainant, and the mortgage processor provided the appraisal amount. Complainant states that Complainant was forced to either pay the closings costs or be without a home, so closing occurred. Complainant further states that upon taking possession, the kitchen island had been removed, and the seller cancelled the home warranty that was to transfer. Complainant states that Complainant's agent and attorney worked hard to have the warranty reinstated but not for the full one (1) year term as agreed to in the contract. Complainant further alleges that the air conditioning was not cleaned per the repair proposal which was discovered when the central air unit stopped cooling four (4) days after closing. Complainants allege that Respondent 1 was negligent by not explaining the contract to the seller and ensuring seller's compliance. Complainants also allege fraud in obtaining appraisal information and submitting false repair invoices.

The purchase and sale agreement appears to have been accepted with adjustments on May 6, 2014 with a binding agreement date of May 7, 2014. It appears that the kitchen island was listed as an item to remain. It also appears that in the Title Expenses section on the TAR form, it states that each party is to pay their own expenses and a few lines beneath that it states, "Not all of the above items are applicable to every transaction and may be modified as follows: Seller to pay 3% of sales price towards buyers closing costs and pre-pays." It further appears that seller amended the possession date and added that seller was to transfer the home protection plan at closing for one (1) year upon accepting the offer. Finally, it appears that buyer's inspection was to be within seven (7) days of the binding agreement date and resolution period was two (2) days following receipt of written list. The invoice for the air conditioning cleaning was dated May 28, 2014.

Respondent 1 stated that when the offer was received, Respondent 1 was on the road returning from medical treatment for Respondent's spouse. Respondent 1 states that Respondent 1 could not read the entire contract on the phone, so Respondent 1 placed a call to Complainant's agent who reviewed the contract. Respondent 1 asked about the title expenses and special stipulations and states that Complainant's agent replied, "No, there is nothing there except for the usual closing cost breakdown as to what the purchaser and seller will pay" but did not mention the 3% closing cost. Respondent 1 states that through the process, the contract passed through multiple people (assistants, title company, closing attorneys, etc.) and nobody caught the line item regarding 3% closing costs and further states that the Complainant accepted and approved a closing statement that did not include the 3% closing costs. Respondent 1 further states that a staff member called the title office to obtain the appraisal value, and states that the staff member identified herself from Respondent 1's office. Respondent 1 states that the sales price would have been adjusted to accommodate closing costs on the onset if it was known. Regarding the repairs, Respondent 1 acknowledges that a repair/replacement proposal was submitted but states that a separate mutual agreement was not executed by both parties and therefore an agreement for repairs was never established. Respondent 1 states that the repairs done by seller were in good faith and not out of obligation.

Respondent 1 further states that the movers inadvertently moved the kitchen island which originally cost the seller approximately \$200; Respondent 1 states that the cost to ship it back would have costs more than \$300 and seller offered to pay Complainant \$300 but Complainant would not settle for less than \$2,000 so seller's sister drove the island back to the property. Respondent 1 further states that the home warranty was never canceled but was transferred into Complainant's name, but the company inadvertently cancelled it. Respondent 1 states that the seller's side tried to work for a reasonable solution but the purchaser demanded results instead of discussing solutions. Respondent 1 states that Respondent 1 relied on the good will of Complainant's agent and believes that Complainant's agent was negligent in explaining the terms of the contract while Respondent 1 was in a difficult situation for the benefit of her client.

Respondent 2 (principal broker) states that Respondent 1 approached Respondent 2 when the question of closing costs surfaced and Respondent 2 advised that Respondent 1 should pay closing costs with Respondent 1's commission and then file a claim with the E&O carrier. Respondent 2 was under the impression this was how it was handled until receipt of the complaint.

**Recommendation: With regard to Respondent 1, Consent Order with a civil penalty in the amount of \$500 for violations of T.C.A §§ 62-13-312(b)(14) and 62-13-403(1), plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.**

**With Regard to Respondent 2, Consent Order with a civil penalty in the amount of \$500 for violation of T.C. A § 62-13-312(b)(15), plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.**

**DECISION: With regard to Respondent 1, Consent Order with a civil penalty in the amount of \$1,000 for violations of T.C.A §§ 62-13-312(b)(14) and 62-13-403(1), plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.**

**With Regard to Respondent 2, Consent Order with a civil penalty in the amount of \$1,000 for violation of T.C. A § 62-13-312(b)(15), plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.**

**Commissioner McMullen made a motion to accept legal counsel recommendation with regard to Respondent 1, Consent Order with a civil penalty in the amount of \$500 for violations of T.C.A §§ 62-13-312(b)(14) and 62-13-403(1), plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order and with Regard to Respondent 2, Consent Order with a civil penalty in the amount of \$500 for violation of T.C. A § 62-13-312(b)(15), plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order; motion seconded by Commissioner Collins; Commissioner DiChiara made a substitute motion to change the civil penalty to \$1000.00 each, plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order for each; motion seconded by Commission Hills; motion pass unanimously.**



7. **2014017151**  
**Opened: 8/20/14**
- First License Obtained: 4/12/96**
- License Expiration: 3/4/15**
- E&O Expiration: 1/1/15**
- Type of License: Principal Broker**
- History: 200707315 (\$1,000 Consent Order-Failure to provide E&O for affiliate), 200708654 (Agreed Citation-Failure to timely complete CE)**

8. **2014017152 (unlicensed)**  
**Opened: 8/20/14**

**History: No history of disciplinary action.**

Complainant states that Respondent 2 (unlicensed) is presenting oneself as a licensed realtor on Facebook. Complainant states that Respondent 2 is working with Respondent 1's (Principal Broker) firm. Complainant states that listings are being posted without permission of the listing agents with much higher list prices than the actual list price. Complainant further states the firm is offering private financing with interest rates of 9% or higher. Complainant further states that Respondent 2 is asking buyers to submit very high down payments and guaranteeing financing with no documentation. Complainant further states that Complainant has met with several potential buyers who worked with Respondents and states that potential buyers were not given a copy of any executed documentation.

The complaint was forwarded to Respondents but returned unclaimed. Neither Respondent responded to the complaint.

Office of legal counsel researched the Facebook profile on 12/1/14 for Respondent 2. It appears that the most recent post was dated October 18, which included a property address, short description and photographs. Further, the name on the page appears to be a Spanish phrase that can be translated to "Want to buy a house," and the "About" section states Respondent 2's first name and last initial.

Respondent 1's firm also has a Facebook profile, and it appears that a photo was posted on or about March 8, 2013 that includes five (5) individuals, none of which are named. The photograph also includes the firm name, stock photos demonstrating homes being sold, but it does not include a telephone number. A second picture shows the same five (5) individuals listed in the picture and includes names and job titles. It appears that two (2) of the five (5) individuals are actively licensed with TREC—one of which is Respondent 1. The other three (3) do not appear to be currently licensed with TREC.

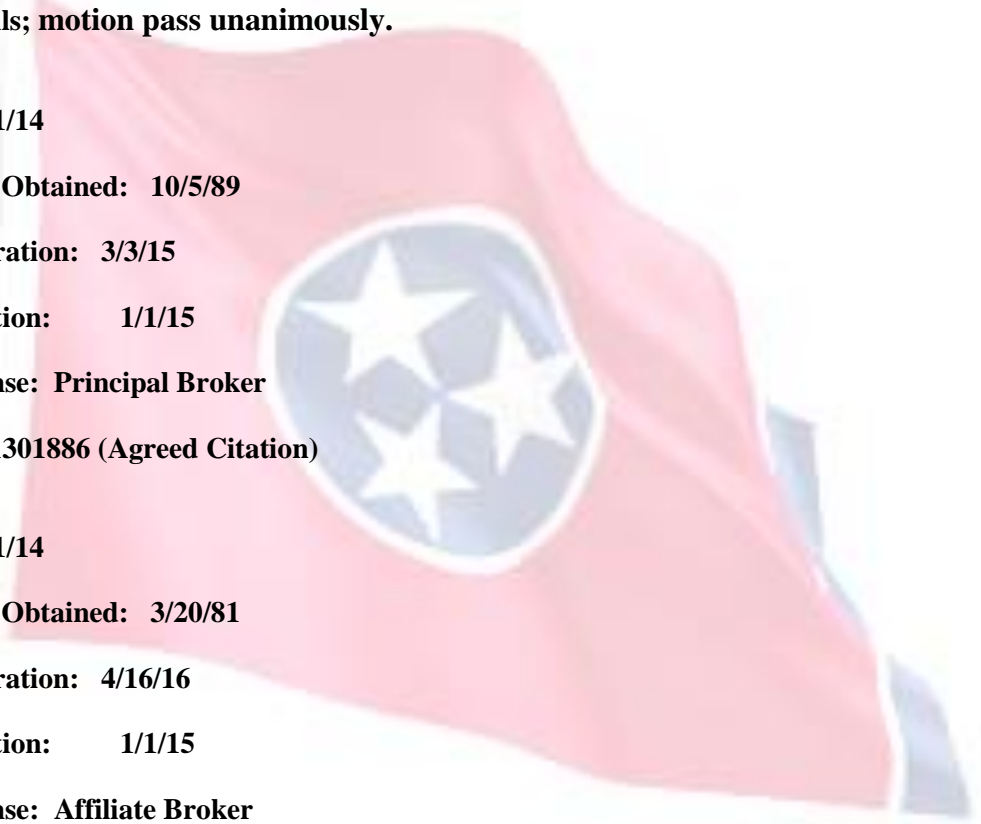
**Recommendation: For Respondent 1, Consent Order with a civil penalty in the amount of \$500 for violations of T.C.A. § 62-13-312(b)(14) and 62-13-313(2) for failure to respond, plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents' execution of Consent Order.**

**For Respondent 2, Consent Order with a civil penalty in the amount of \$500 for unlicensed activity in violation of T.C.A. §§ 62-13-102(4)(A), 62-13-103 and 62-13-301, said order to also include order to cease and desist all unlicensed activity.**

**DECISION: For Respondent 1, Consent Order with a civil penalty in the amount of \$1,000 for violations of T.C.A. § 62-13-312(b)(14) and 62-13-313(2) for failure to respond, plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents' execution of Consent Order.**

**For Respondent 2, Consent Order with a civil penalty in the amount of \$1,000 for unlicensed activity in violation of T.C.A. §§ 62-13-102(4)(A), 62-13-103 and 62-13-301, said order to also include order to cease and desist all unlicensed activity.**

**Commissioner McMullen made a motion to accept legal counsel recommendation of Consent Order but to increase the civil penalty to \$1,000.00 for Respondent 1, for violations of T.C.A. § 62-13-312(b)(14) and 62-13-313(2) for failure to respond, plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents' execution of Consent Order and for Respondent 2, Consent Order with a civil penalty increased to the amount of \$1,000.00 for unlicensed activity in violation of T.C.A. §§ 62-13-102(4)(A), 62-13-103 and 62-13-301, said order to also include order to cease and desist all unlicensed activity; seconded by Commissioner Hills; motion pass unanimously.**

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9.     **2014017171**  
      **Opened: 8/11/14**  
  
      **First License Obtained: 10/5/89**  
  
      **License Expiration: 3/3/15**  
  
      **E&O Expiration: 1/1/15**  
  
      **Type of License: Principal Broker**  
  
      **History: 201301886 (Agreed Citation)**
  
  10.    **2014017172**  
      **Opened: 8/11/14**  
  
      **First License Obtained: 3/20/81**  
  
      **License Expiration: 4/16/16**  
  
      **E&O Expiration: 1/1/15**  
  
      **Type of License: Affiliate Broker**  
  
      **History: 200313865 (Letter of Warning)**

Complainant submitted an offer on a home, and Respondent 2 (affiliate broker) represented the bank seller. Complainant states that Complainant submitted an offer, provided additional documentation upon request, and Complainant's offer was accepted. Complainant states that a few days later, the contract was denied without further explanation. Complainant states that Respondent 2 sold the property just a few days after declining Complainant's bid and ignored Complainant's calls. Complainant states that Respondent 2 did not follow the bank's guidelines, and Complainant feels discriminated against after having provided proof of funds and all required documentation.

Respondent 1 (principal broker) submitted a response stating that Complainant filed a complaint with their office, and Respondent 1 reviewed the file and sent an email to Complainant clarifying the issue. Respondent 1 states that Complainant's offer was marked as accepted online, but another offer was received around the same time, so the bank opened a multiple offer process requesting both potential buyers to submit their final and best offer. Respondent states that the bank accepted the other offer, and the bank does not customarily state why one offer was better than another. Respondent 1 states that Respondent 2 did not return Complainant's phone calls because Complainant was represented by an agent, and that is not proper protocol. Respondent 1 denies that Complainant's offer was disregarded or ignored stating that the bank would not have requested additional information if the offer had been ignored. Respondent 1 further states that Complainant did not specify which bank guidelines were not followed and is unable to address the issue specifically, but states that from reviewing the file it appears that Respondent 2 followed all guidelines—acting honestly, quickly and professionally. Respondent 1 further states that all applications and negotiations were done electronically, therefore Respondent 2 never had an opportunity to form an opinion of or discriminate against Complainant. Respondent 1 further states that Respondent 1 did not fail to supervise, as the file was reviewed and Complainant was responded to immediately.

Respondent 2 submitted a response stating that the bank requires all offers to be submitted online and not via the listing agent, which ensures that Respondent 2 followed all bank guidelines. Respondent 2 further states that Complainant's offer was uploaded to the file and not ignored as alleged. Respondent 2 also states that the correspondence in the file details communication and confirms that Complainant's offer was submitted and being negotiated with the bank. Respondent 2 also states that Complainant's offer and another offer were accepted on the same day, and both parties were notified to present their highest and best offer. Respondent 2 states that the bank rejected Complainant's offer and Respondent 2 had no part in the decision. Respondent 2 further states that there is no requirement to state a reason for rejecting an offer. Respondent 2 also denies discrimination, stating that Respondent 2 never met or spoke with Complainant.

**Recommendation: Dismiss.**

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

**Commissioner Collins made a motion to accept legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

11. **2014017291**  
**Opened: 8/05/14**
- First License Obtained: 8/22/14**
- License Expiration: 8/21/16**
- E&O Expiration: Uninsured**
- Type of License: Firm**
- History: No history of disciplinary action.**

A complaint was filed on or about 7/21/14 against Respondent stating it is an unlicensed residential property management company. Respondent submitted a response on or about 7/29/14 by and through an attorney denying allegations. Respondent states that Complainant used a fax address and phone number when submitting the complaint and the complaint fails to provide any basis for violation. Respondent states that it is a new entity that was formed in 2014 and is working toward forming a proper business structure. Respondent states that Respondent is working with a broker and intends to file for licensure. It appears that Respondent became licensed on or about 8/22/14.

**Recommendation: Dismiss.**

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

**Commissioner McMullen made a motion to accept legal counsel to dismiss; motion seconded by Commissioner DiChiara; motion pass unanimously.**

12. **2014017391**  
**Opened: 8/11/14**
- First License Obtained: 4/13/07**
- License Expiration: 5/2/15**
- E&O Expiration: 1/1/15**
- Type of License: Broker**
- History: No history of disciplinary action.**
13. **2014017392**  
**Opened: 8/11/14**
- First License Obtained: 2/21/95**
- License Expiration: 6/19/15**
- E&O Expiration: 1/1/15**
- Type of License: Broker**
- History: No history of disciplinary action.**



Complainant was seller and Respondent 2 (broker) was buyer's agent. Respondent 1 was Respondent 2's principal broker between 4/9/14 and 8/26/14, and thus at the time of the transaction. Complainant alleges that Respondent 2 drafted an early occupancy agreement, but Complainant did not sign it. Complainant further states that closing did not occur as scheduled on July 18, 2014, and buyers again requested early occupancy, but Complainant refused only allowing buyers to place a few boxes in the garage. Complainant alleges that on July 18, 2014 Respondent 2 instead gave buyers the keys to move in.

Respondent 2 stated that the closing was scheduled to take place, originally, on July 18, 2014. In good faith, the buyer submitted a temporary occupancy agreement on the morning of July 17, 2014. Respondent 2 stated that they expected the Complainant to sign the form and return in that day since Complainant had already moved out of the house. Respondent 2 stated that, although Complainant had not signed the temporary occupancy agreement, Complainant's agent gave permission for the buyers to move boxes into the garage and gave Respondent 2 permission to give buyers access to the lockbox to gain entry into the garage. Respondent 2 states that the loan company did not provide documents to the title company in time for closing on July 18, 2014. At this point, the Complainant wanted the buyers to pay \$500 rent for the weekend and that the furniture could stay in the house, but Complainant did not want the buyers to occupy the house until closing on July 21. The buyers agreed to the terms and gave the keys back to Complainant's agent. The rent check was given to Complainant's agent made payable to Complainant after the closing on July 21, as agreed. Respondent 2 is truly sorry that the lender did not send the loan package when promised because it caused a stressful situation for all parties.

Respondent 1 (principal broker) sent a response to the complaint stating that Respondent 2 gave express permission to the buyers to do precisely what, and only what, the Complainant had authorized – that is, move boxes into the garage. The buyers' moving into the living area of the property prior to close was initiated by the unfortunate and untimely intervention of the neighbor, wholly without the knowledge of Respondent 2. The buyers relied on the representations of the neighbor that the Complainant had authorized them to move in, before obtaining approval from Respondent 2. This was a mistake, but an understandable one, as the buyers are not real estate professionals. Once Respondent 2 discovered that the buyers had moved into the living area of house prior to close, Respondent 2 set out to resolve the situation in a prompt and professional manner.

**Recommendation: Dismiss.**

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

**Commissioner McMullen made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Hills; motion pass unanimously.**

**14. 201407621**

**Opened: 8/12/14**

**First License Obtained: 12/19/97**

**License Expiration: 2/26/15**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

This complaint alleged that Respondent (principal broker) failed to return earnest money deposit in the amount of One Thousand Dollars (\$1,000), after Complainant did not close on the contract date of 12/13/2013. The complaint also alleged that Respondent attempted to write the original contract without the clause “purchase contingent upon buyer obtaining financing at lending institution at reasonable terms – terms defined.” The complaint alleged that Respondent failed to keep abreast of developing situations during the contract performance period and failed to negotiate any of the terms of the contract once the original seller died. Complainant stated Respondent refused to get involved and left Complainant to negotiate with the seller’s heirs. Complainant alleged that now the Respondent is trying to insert himself back into the deal even though he has done nothing and is not in the new contract. Complainant alleges that the Respondent’s interference in this matter is directly affecting Complainant’s ability to negotiate with seller’s estate executor, as Complainant has been told Complainant will be sued if the full original commission is not paid. Complainant stated that Complainant has \$10,000 already invested in the property in order to get it appraised for the agreed upon sales price, and the property is in need of major repair to the tune of about \$8,000, which the seller has agreed in principal to compensate Complainant for but not with the addition of a full commission going to the non-performing Respondent broker.

Respondent sent a response to the complaint stating that Respondent would be happy to interplead the earnest money, but Respondent has never received a request for disbursement from either party or their representatives. Respondent stated Respondent could not write in the requested clause as there was no legal definition as for reasonable terms. Respondent stated that Respondent attempted to remain involved with the contract throughout the process; however during re-negotiations, Complainant was trying to cut Respondent out of a commission. Respondent stated Respondent’s responsibility ended at the signing of the original contract, even though Respondent offered his services to assist. Respondent denies telling either party that Respondent would sue them—just that Respondent felt there was a valid contract for compensation. Respondent states that Complainant’s investment has nothing to do with Respondent, but the contract states buyers are to be responsible for repairs. Respondent denies being in violation of any laws or rules of the Commission.

Office of legal counsel reviewed the transaction file, and it appears that Respondent’s auction firm is the selling company, and Respondent’s real estate firm is the listing company. Complainant entered a lease/purchase agreement with the seller for a term of June 1, 2013 through December 31, 2013, which included a \$1,000 earnest money deposit that Respondent’s firm would receive a commission at the final closing of the property. An extension of the lease/purchase agreement was filed on December 17, 2013, amending the contract between landlord’s heirs and Complainant, extending the term through August 1, 2014, and deleting the provision for commission. It further appears that Complainant has not closed on the subject property.

**Recommendation: Dismiss**

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

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Austin; roll call vote 4 yes and 1 no from Commissioner DiChiara; motion pass.**

**15. 2014017951**  
**Opened: 8/21/14**

**First License Obtained: 8/2/06**

**License Expiration: 3/25/16**

**E&O Expiration: 1/1/15**

**Type of License: Broker**

**History: No history of disciplinary action.**

**16. 2014017961**  
**Opened: 8/21/14**

**First License Obtained: 11/14/00**

**License Expiration: 8/1/16**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

The complaint was filed by an unrepresented seller and alleges that Respondent 1 (broker) intentionally misrepresented to Respondent 1's clients (buyers) that Complainant's outdoor non-attached utility building was included in the sale of the home and property. Complainant stated it was never included in the offer and never mentioned until closing when the buyers asked for the key. Complainant alleged that Respondent 1 insisted it was part of the sale and assured that Complainant would hand over the key before closing documents were completed. Complainant states that Respondent 1 intentionally misrepresented that the building was for sale, due to Complainant not having representation in the transaction, and Complainant was coerced to agree as the final documents and the ultimate sale of the home hinged on that agreement. After the closing, Complainant spoke with the Respondent 2 (principal broker), and Complainant alleges that the Respondent 2 agreed that the building was not part of the sale. Complainant states that Respondent 2 was going to look into the issue and respond back but never did.

TREC opened a complaint against Respondent 2 (principal broker) for failure to supervise Respondent 1.

Respondents sent a joint response claiming that their clients were satisfied and not intentionally misrepresented as Complainant suggests. Respondents also state that the shed does not convey. It is listed on the tax card as an improvement as well as the appraisal. Therefore, using the definition of "Property" in the Purchase and Sale Agreement, all improvements remain with the property. Respondents state that Complainant was paid the fair value for the shed included in the sales price of the home. Respondent 2 denies agreeing that the shed was not part of the sale, as suggested by Complainant. Respondent 2 stated that Respondent 1 performed Respondent 1's job without incident. Respondents further state that the Commission should be made aware that Respondents were not made aware in writing that Complainant was obtaining a real estate license during this transaction.

**Recommendation: Dismiss.**

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

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Austin; motion pass unanimously.**

**17. 2014017991  
Opened: 8/19/14**

**First License Obtained: 10/6/03**

**License Expiration: 4/12/16**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

This complaint was filed by the sellers and alleged that in the contract, Complainants requested that they be called and an appointment be set any time the property was to be shown. Complainants allege that the Respondent and the buyers took it upon themselves to enter the house a third or fourth time without Complainants' knowledge or permission, which were unrelated to the termite inspection, etc. Complainants further allege that Respondent lied about the occasions that Respondent was in the house with the buyers. Complainants allege that Respondent practiced unprofessional and unethical behavior and should be reprimanded. In addition, Complainant s allege that Respondent sent threatening texts to Complainants' agent the day before closing regarding \$250 that was to be paid by Complainants. This amount was inadvertently left off the HUD settlement statement. Complainants agreed to write a check at closing, but state that Respondent's threatening texts continued.

Respondent submitted a response stating that Respondent never entered without permission from the listing agent at any time. Respondent's buyers were first time home buyers and were very excited to be purchasing the home and asked, after the inspections were completed, to allow family members who live out of town view the home. Respondent stated that Respondent was in close contact with the listing agent during that time, who knew they were entering the property and gave them permission to do so. Respondent also denied threatening the listing agent over the monetary dispute. Respondent states that Respondent was simply trying to represent the buyers' best interests.



Respondent also submitted a statement from the listing agent, stating that she was the one who gave Respondent permission to enter the house and that the Complainants know that. She stated that the complaint was unnecessary and that Complainants were able to sell their home quickly and that Respondent did nothing wrong.

**Recommendation: Dismiss.**

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

**Commissioner Hills made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Collins; Chairman Griess passes; motion pass.**

**18. 2014018011**

**Opened: 8/19/14**

**First License Obtained: 1/10/02**

**License Expiration: 9/21/16**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

TREC filed a complaint against Respondent principal broker for failure to supervise the Respondent agent from the previous case no. 2014017991. No response was received from Respondent principal broker.

**Recommendation: Consent Order with a civil penalty in the amount of \$250 for violation of T.C. A §§ 62-13-312(b)(14) and 62-13-313(a)(2), plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents' execution of Consent Order.**

**DECISION: Consent Order with a civil penalty in the amount of \$1,000 for violation of T.C. A §§ 62-13-312(b)(14) and 62-13-313(a)(2), plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents' execution of Consent Order.**

**Commissioner McMullen made a motion to accept counsel recommendation of Consent Order with a civil penalty but to change amount to \$1,000 for violation of T.C. A §§ 62-13-312(b)(14) and 62-13-313(a)(2), plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents' execution of Consent Order; motion seconded by Commissioner Collins; motion pass unanimously.**

**19. 2014018111**  
**Opened: 8/18/14**

**First License Obtained: 12/8/05**

**License Expiration: 12/27/15**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

This complaint alleges that Complainant called Respondent, the listing agent for two parcels listed for sale in MLS, and Respondent attempted to describe the parcels and their history. Complainant asked Respondent, who had the same last name as the listed property owners, whether Respondent was related to the owners, to which Respondent stated that one of the owners was Respondent's spouse and the other was Respondent's brother. When Complainant asked why that was not disclosed on the MLS, Respondent stated that Respondent was not an owner/agent. Subsequently, Complainant made an offer to purchase the property through Respondent, accompanied by a \$1,000 earnest money check. Complainant dropped off the contract and check at the real estate office, and alleged that this angered Respondent who told Complainant to email it instead. Complainant states that Complainant called the principal broker who agreed to scan the offer to Respondent from the office. Later that day, Complainant received an email containing the last page of the offer from Respondent, allegedly signed by the owners, rejecting the offer. Complainant replied to the email with Complainant's address to return the earnest money check, but instead Respondent requested that Complainant go by the office to pick it up. Complainant states that Complainant finally got the check back eight days later after contacting the principal broker. Complainant alleged that Respondent did not act honestly and in good faith in regards to the advertisement of the properties by not disclosing ownership (marital or familial ownership at the least) interest in the properties, as well as Respondent's refusal to return Complainant's earnest money that was hand delivered to the office.

Respondent sent a response to the complaint stating that Respondent did disclose the relationship with the owners but explained that this is an investment property, and Respondent's name is not on the deed; therefore, Respondent cannot put on MLS as owner/agent. Respondent tried to explain to Complainant that there was a personal interest disclosure form but that Complainant did not listen. The original offer submitted by Complainant was typed by Complainant, personally and Respondent used the TAR form which is copyrighted and only to be used by Realtors. Respondent stated that when the offer was rejected, Complainant became angry and asked Respondent to return the earnest money check to Complainant's house, personally. The broker mailed the check back to Respondent five days later. Respondent claimed that Complainant practiced unlicensed activity.

**Recommendation: Dismiss.**

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

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Hills; motion pass unanimously.**

**20. 2014018121**  
**Opened: 8/19/14**

**First License Obtained: 5/14/74**

**License Expiration: 2/5/15**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

TREC filed a complaint against Respondent, principal broker, for failure to supervise the Respondent agent from the previous case no. 2014018111 (hereinafter "Affiliate Broker").

Respondent sent a response to the complaint stating that Affiliate Broker in no way made any substantial and willful misrepresentation. Respondent states that Complainant from case no. 2014018111 (hereinafter "previous Complainant") acknowledges that during their very first telephone conversation Affiliate Broker told previous Complainant of the relationship to the owners of the property. Respondent stated that owners/agents are only required to disclose in MLS listings. All other personal interest is properly disclosed on the TAR form and becomes part of the contract. The offer was rejected; therefore, no personal interest form was required. Within three business days, the check was put in the company mail to previous Complainant and should have gone out that day or the following day. Respondent states that Affiliate Broker did not refuse to return the earnest money, but refused to take it to the previous Complainant's home as demanded. Respondent further states that there was no trust fund deposit.

**Recommendation: Dismiss.**

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

**Chairman Griess made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**21. 2014018521**  
**Opened: 8/27/14**

**First License Obtained: 8/2/94**

**License Expiration: 2/3/15**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

Complainant alleges that Complainant's rights as a tenant were violated and Complainant's things were removed from the property. Complainant alleges that new tenants were given keys and unsupervised access to the townhome Complainant was renting, while Complainant's lease was still current and active. Complainant alleges Complainant's personal belongings were moved without permission and items were stolen and damaged. Complainant alleges that no verbal, written, or legal notification was ever presented, giving Complainant a time frame to remove the items before they were removed. Complainant alleges that when Complainant contacted Respondent who orchestrated the removal, Respondent took no responsibility nor did Respondent try to remedy the situation.

Respondent sent a response to the complaint stating that Complainant has filed a civil lawsuit against Respondent, and that this has been an ongoing problem. Respondent claims that the new tenants were not given unauthorized access to the property. Respondent stated Complainant was aware that the unit had been rented and was given many opportunities to take Complainant's possessions out. The new tenants were not given keys until all of Complainant's items were out, but they were allowed in the unit on the first day of their rental to deposit some cleaning items. Respondent stated that Complainant's items were not moved without Complainant's knowledge. Complainant was notified prior to the new tenants' move-in date and was given instructions on what to do. Respondent claims that Complainant acknowledged the many notifications through text message. Respondent states Respondent was not responsible for orchestrating the removal of Complainant's possessions; rather, it was the landlord and his agent/maintenance man who were responsible. Respondent stated that Complainant was in violation of Complainant's lease by not switching the utilities over into Complainant's name, the landlord paid the utilities for 11 months, and Complainant did not pay her last month's rent. In regard to the police report that was filed by Complainant, an investigation was completed, and no charges were brought forth. Respondent states Respondent regrets this series of unfortunate events but does not feel like Respondent acted unethically or unlawfully.

Complainant submitted an additional response stating Respondent is not being forthcoming about the facts in the matter, and Respondent's answer is contradictory.

It appears that the lease agreement was from April 1, 2013 through April 1, 2014. It further appears from a conversation between the parties, that Complainant's items were removed from the property the morning of April 1, 2014, and Respondent told Complainant that Complainant could contact the landlord to arrange pick-up of the items and return of keys because Respondent was out of town. A police report was filed by Complainant on April 4, 2013 for theft of property, and a supplemental report was filed April 22, 2014. Respondent also submitted a response to a demand letter from Respondent's attorney to Complainant's attorney. Complainant and Respondent are negotiating a settlement agreement, but civil litigation has not been filed as previously suggested.



**Recommendation: Consent Order with a civil penalty in the amount of \$500 for violation of T.C. A §§ 62-13-312(b)(14) and 62-13-403(1), plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents' execution of Consent Order.**

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

**Commissioner McMullen made a motion to accept counsel recommendation Consent Order with a civil penalty in the amount of \$500 for violation of T.C. A §§ 62-13-312(b)(14) and 62-13-403(1), plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents' execution of Consent Order; motion seconded by Chairman Griess; motion pass with 4 yes and one pass by Commissioner Collins.**

**22. 2014018591 (unlicensed)**

**Opened: 8/4/14**

**History: No history of disciplinary action.**

A complaint was filed against Respondent for potential unlicensed activity. TREC received information stating that Respondent would be featured on a television show for flipping houses. The advertisements state that Respondent has been flipping Nashville homes for 5 years and has closed on 200+ deals. The advertisement states that Respondent wants to educate others on what works and what doesn't work in real life, and the television program will show what Respondent does day to day. A news article was also submitted that states that some homebuyers who purchased these flipped homes have had problems with the renovated work.

This complaint was sent for investigation, which yielded the following information: Two (2) homeowners have filed a civil lawsuit due to poor workmanship on their home renovations, but litigation is at a standstill because Respondent filed bankruptcy. Further, in Respondent's statement to the investigator, Respondent states that Respondent owns a company which purchases, renovates and sells homes. Respondent states that there is nothing illegal regarding the business, and Respondent has a great reputation regarding the quality of Respondent's homes. Respondent further states that all sales are handled by licensed real estate agents.

Office of legal counsel reviewed the documentation obtained by the investigator. It appears that Respondent's company is an LLC, and Respondent is the sole member. Respondent's firm's Facebook page contained one listing, which included the address, the name of the listing agent, phone number, and MLS number for the listing. The listing agent is a licensed affiliate broker. Information was obtained regarding multiple properties, including their transaction documents, most of which utilized licensed brokers. There are three (3) transactions identified where seller, Respondent's LLC, did not use an agent. There is also one (1) transaction identified where buyer, Respondent's LLC, did not use an agent. Further, Respondent identified additional properties that were bought, renovated, and sold through the LLC but did not provide transaction documents. Under the law, an LLC is not exempt pursuant to T.C.A. § 62-13-104(a)(1)(A) or (F).

**Recommendation:** Consent Order with a civil penalty in the amount of \$1,000 in violation of T.C.A. § 62-13-301 for unlicensed activity, referencing T.C.A. §§ 62-13-102(4)(A) and 62-13-103, said order to also include order to cease and desist all unlicensed activity.

**DECISION:** Consent Order with a civil penalty in the amount of \$4,000 in violation of T.C.A. § 62-13-301 for unlicensed activity, referencing T.C.A. §§ 62-13-102(4)(A) and 62-13-103, said order to also include order to cease and desist all unlicensed activity.

Commissioner McMullen made a motion to accept legal counsel recommendation of a Consent Order with a civil penalty but to change amount to \$4,000 in violation of T.C.A. § 62-13-301 for unlicensed activity, referencing T.C.A. §§ 62-13-102(4)(A) and 62-13-103, said order to also include order to cease and desist all unlicensed activity; motion seconded by Commissioner Hills; motion pass unanimously.

23. **2014018691**

**Opened: 9/30/14**

**First License Obtained: 1/29/13**

**License Expiration: 1/28/15**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

This complaint alleges that Complainant, a non-profit corporation providing housing, food, and other necessities to persons in need, entered into a contract to convey a parcel of property to Respondent by quitclaim deed. However, Complainant alleges that Respondent never paid Complainant the sum of \$2,500, nor has Respondent conveyed the property back to Complainant, per the terms of the contract. Complainant alleges that Respondent violated T.C.A. 62-13-312(b)(1), (2), and (5).

Respondent submitted a response provided via a letter provided to Complainant's attorney on August 1, 2014. Respondent denies violating T.C.A. 62-13-312(b)(1), (2), and (5). Respondent states that Respondent met with Complainant who was interested in purchasing a home and was interested in selling some of Complainant's fourteen (14) properties that were owned by Complainant's non-profit and were used to house the homeless. Respondent further states that Complainant does not claim income when filing taxes, and Respondent stated that Complainant would need proof of income for at least twenty-four (24) months to qualify for a mortgage. Respondent states that of all the properties, Respondent could likely get an investor to purchase three (3) of the properties in question—one of which is the subject of the complaint. Respondent then suggested a joint venture effort with clearly defined financial expectations, and the idea was to quitclaim deed the properties, so Respondent could apply for a home improvement loan. Respondent states that upon further review of the properties, taxes were extremely delinquent and some had already been sold at a public tax sale or had been scheduled for sale, but Complainant claims that taxes are exempt and this was an error. Respondent states that Respondent deeded the subject property back to Complainant.

Respondent states that Complainant has contacted Respondents peers and clients and complained to Complainant's principal broker who released Respondent, which has caused Respondent financial harm.

Office of legal counsel reviewed the file and performed additional research. The Purchase and Sale Agreement was executed by Respondent as Buyer for a purchase price of \$2,500 with a closing date of February 15, 2014. The Special Stipulations state that Complainant will execute a quitclaim deed to Respondent. If Respondent does not close on or before the projected closing date, Respondent shall quitclaim the property back to Complainant without delay. The Agreement was accepted by Complainant on or about January 16, 2014. It appears that a quitclaim deed conveying the property to Respondent was filed on January 16, 2014, and a quitclaim deed conveying the property back to Complainant was entered July 29, 2014. Further, the purchase and sale agreement does not include information regarding listing, selling, or independent licensees, and there were no personal interest disclosures in the file.

**Recommendation: Consent Order for \$1,000 for violations of T.C.A §§ 62-13-312 (b)(14) and 62-13-403(7)(A), plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.**

**DECISION: The Board authorized Dismissal.**

**Commissioner Hills made a motion to accept the recommendation of legal counsel Consent Order for \$1,000 for violations of T.C.A §§ 62-13-312 (b)(14) and 62-13-403(7)(A), plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order; motion seconded by Chairman Griess; substitute motion made by Commissioner McMullen to dismiss; motions seconded by Commissioner Collins; motion pass unanimously.**

- 24. 2014018761**  
**Opened: 8/18/14**
- First License Obtained: 6/14/00**
- License Expiration: 12/14/16**
- E&O Expiration: 1/1/15**
- Type of License: Principal Broker**
- History: 2014020711 (under review)**

TREC opened a complaint against Respondent, principal broker, for failure to supervise previous Respondent, affiliate broker, in case no. 2014018691 (hereinafter "Affiliate Broker"). Respondent was Affiliate Broker's supervising agent from 1/29/13 through 7/28/14, and was the principal broker during the subject transaction. Respondent states that Respondent had no knowledge of any transaction between Affiliate Broker and previous Complainant until receipt of a letter from previous Complainant's attorney, and Respondent promptly released affiliate broker.

**Recommendation: Letter of Warning for T.C.A § 62-13-312(b)(15) for failure to supervise.**

**DECISION: The Board authorized a Letter of Warning for T.C.A § 62-13-312(b)(15) for failure to supervise.**

**Chairman Griess made a motion to accept counsel recommendation of Letter of Warning for T.C.A § 62-13-312(b)(15) for failure to supervise; motion seconded by Commissioner McMullen; motion pass unanimously.**

25. **2014018781**  
**Opened: 8/26/14**  
  
**First License Obtained: 7/25/11**  
  
**License Expiration: 8/4/16**  
  
**E&O Expiration: 1/1/15**  
  
**Type of License: Principal Broker**  
  
**History: No history of disciplinary action.**

26. **2014018801**  
**Opened: 10/22/14**  
  
**First License Obtained: 3/4/04**  
  
**License Expiration: 4/25/15**  
  
**E&O Expiration: 1/1/15**  
  
**Type of License: Principal Broker**  
  
**History: No history of disciplinary action.**

This complaint alleges that Respondent 1's sign violates the current statute, T.C.A. § 62-13-310. At the time of the complaint, Respondent 1 was an affiliate broker. The licensee name font size is larger than the smallest font in the firm name on the sign. The legal file contains documentation in the form of a picture to prove this allegation.

TREC opened a complaint against Respondent 2, who was Respondent 1's principal broker during the subject violation.



Respondents sent a response to the complaint, apologizing for his signage complaint and stating that it was not Respondent 1's intention to not follow proper sign standards. Respondent 1 admits that the first letter of Respondent 1's first and last name is larger than the company name. Respondents state that the reason this has not already been corrected is due to Respondent 1 leaving the real estate company to open Respondent 1's own brokerage. Because of this, Respondent 1 is having to re-do all of his signage. Respondent 1 states that Respondent has approved new signage and a solution to the subject sign and has expedited the install so that this is corrected.

**Recommendation: For Respondent 1 Consent Order for \$250 for violations of T.C.A. §§ 62-13-312(b)(14) and 62-13-310(b), plus attendance at one regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.**

**For Respondent 2, Consent Order for \$250 for violations of T.C.A. § 62-13-312(b)(14) and Rule 1260-02-.12(2)(b) stating all advertising shall be under the direct supervision of the principal broker, plus attendance at one regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.**

**DECISION: For Respondent 1 Consent Order for \$500 for violations of T.C.A. §§ 62-13-312(b)(14) and 62-13-310(b), plus attendance at one regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.**

**For Respondent 2, Consent Order for \$500 for violations of T.C.A. § 62-13-312(b)(14) and Rule 1260-02-.12(2)(b) stating all advertising shall be under the direct supervision of the principal broker, plus attendance at one regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.**

**Commissioner McMullen made a motion to accept counsels recommendation for Respondent 1 but to increase Consent Order to \$500 for violations of T.C.A. § 62-13-312(b)(14) and Rule 1260-02-.12(2)(b) stating all advertising shall be under the direct supervision of the principal broker, plus attendance at one regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order, and for Respondent 2, Consent Order for \$500 for violations of T.C.A. § 62-13-312(b)(14) and Rule 1260-02-.12(2)(b) stating all advertising shall be under the direct supervision of the principal broker, plus attendance at one regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order; motion seconded by Commissioner Griess; motion pass unanimously.**

**27. 201401891**  
**Opened: 8/6/14**

**First License Obtained: 5/12/08**

**License Expiration: 5/11/16**

**E&O Expiration: Uninsured**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

This complaint was opened against Respondent, principal broker, for failure to supervise two (2) unlicensed agents. The complaint alleges that Respondent's website indicates that two agents offer real estate services, yet they are not licensed with the state of Tennessee as licensees, in violation of 62-13-301 and 62-13-103.

Respondent sent a response to the complaint stating that the two agents listed on the website both hold active real estate licenses in a neighboring state. Respondent stated that both of the agents, through an internal co-brokerage agreement with Respondent, were working on the property in question. Respondent stated that Respondent strives to comply with local license law in every state in which Respondent does business and believed this was the proper course of action when handling an asset in the state of Tennessee. Respondent stated that if they are handling this situation incorrectly, Respondent apologizes and seeks the Commission's input as to how he may modify his actions going forward.

Respondent is not principal broker for the out of state agents, and it does not appear to legal counsel that the out of state agents were compensated or employed by Respondent pursuant to T.C.A. § 62-13-302. Further, it appears that the website where the advertisement occurred is the corporate website and not Respondent's branch website.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Chairman Griess made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**28. 2014019081**  
**Opened: 8/18/14**

**First License Obtained: 6/5/01**

**License Expiration: 3/10/16**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

This complaint alleged that Complainant had a signed occupancy agreement for buyers to pay rent while awaiting the closing on a home. The buyer allegedly paid the first month's rent, then provided a second check for the remainder of rent at closing (\$1421.00). After the check was provided, the buyer cancelled the check, causing it to bounce. Complainant states that buyer did so because the terms of the initial sales agreement were not met. However, Complainant alleges there was a second sales agreement signed, as the house did not appraise for the agreed upon amount. Complainant alleges that Complainant was never provided a copy of this document, even though it was requested. The house closed at the lower amount. Complainant alleges that Respondent and principal broker refuse to release the documents to either Complainant or Complainant's attorney, and Respondent has not returned Complainant's calls or emails.

Respondent sent a response to the complaint stating that Respondent represented the Complainant (seller) in this transaction. Complainant returned from deployment, and the house was listed via email. Respondent stated they accepted an offer with a temporary occupancy agreement attached. Complainant agreed to pay \$2,000 to the buyer for an appliance allowance. The buyer agreed to pay Complainant so much rent per day at closing, per the agreement. Closing extended due to lending issues and low appraised value. An amendment changing the purchase price to meet the appraised value and extending the closing date was executed. The buyer paid the Complainant rent up to that time so Complainant could pay the house payment. Respondent stated that when the title company closed on the property, it inadvertently did not include the \$2,000 appliance allowance on the HUD and the buyer caught the mistake after the closing. Respondent states that Complainant refused to pay the \$2,000, explaining that it was their mistake, and Complainant was no longer obligated to do so. The buyer stopped payment on their rent check to Complainant once they realized Complainant had no intention of paying them the \$2,000 owed for the appliance allowance. This provided for a difference of \$800 owed to buyer. The listing agent called Respondent and asked if the listing agent would split the \$800 difference owed the buyer. Respondent wrote a check to the title company for \$400 so the title company could distribute the funds to the buyer. Respondent stated that despite Complainant's allegations, Respondent was provided a copy of all documents via email. According to the legal file, the contract was accepted by the buyer on January 17, 2014 and forwarded to Respondent on January 18, 2014. It appears that Respondent forwarded it to Complainant (seller) on January 18, 2014. The amendment to the agreement was sent to the Complainant on April 2, 2014.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Chairman Griess made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Hills; motion pass unanimously.**

**29. 2014019091  
Opened: 8/18/14**

**First License Obtained: 12/30/87**

**License Expiration: 5/11/15**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

TREC filed a complaint against Respondent, principal broker, for failure to supervise the Respondent agent from the previous case no. 2014019081 (hereinafter "Affiliate Broker").

Respondent sent a response to the complaint stating that Complainant alleged that he and his affiliate broker have been uncooperative in providing him with documents regarding the closing of the subject property. Respondent stated that all documentation was sent to Complainant as requested.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Chairman Griess made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**30. 2014020481**

**Opened: 9/29/14**

**First License Obtained: 7/10/06**

**License Expiration: 7/9/16**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

This complaint was filed by the buyer of a property and alleged that Respondent (owner/agent) vandalized property and committed theft of utility services and left the buyers to take the fall. Complainant stated that after their offer was accepted, they ordered an inspection. Complainant's agent told Complainant that Respondent had refused to have the utilities turned on for the inspection and asked that Complainant turn them on in Complainant's own name, even though Complainant had not yet purchased the property. After about a week, Complainant was informed that the utilities were on, and a meter box had been installed on the property so that inspection took place shortly, thereafter. At the walk through, the needed repairs appeared to be in working order. Complainant closed on the property, and approximately 4 days later put in a request for services. It was at this time that Complainant was informed that the utilities were turned on illegally and that it would be reported to the theft division to report theft of services. Complainant informed them that Complainant had just purchased the property and that the Respondent seller had the utilities turned on. The tech said that there had been no prior order placed for services at that address since January 2014. The tech performed the inspection anyway and noticed that there was extensive damage to the entrance cable mast. The wires had been tampered with and were badly burned. They also determined that the meter box was stolen. Complainant alleged Complainant informed Respondent of these issues and asked why they were not disclosed prior to closing. Complainant alleges that Respondent took no responsibility for the issues presented. Complainant also contacted Respondent's broker to report the problem, who encouraged Respondent to make restitution. Respondent's broker also stated that the house passed inspection and any damage discovered thereafter is the buyer's responsibility.



This delayed Complainant's move-in date. Complainant claims that Respondent failed to have the home ready for move-in as required by HUD. Complainant alleged that Respondent vandalized the property to sell, withheld information about the condition of the home, committed theft of utility services, and left the Complainant's with no recourse.

Respondent sent a response to the complaint stating that Respondent can attest that the home was in very good condition with new carpet, paint, appliances, etc. The home had been recently rehabbed, and it is the buyer's inspector's duty to bring awareness of any problems associated with the property before closing. Respondent claims Respondent was not made aware of any issues associated with the electrical, as Respondent would have taken care of any repairs that needed to be made. This was an issue brought to light after the purchase of the home, which Respondent is not sure who caused. Respondent stated that that is the whole point of having inspectors, to protect the buyers. As for the utility charges to this property, all charges to this property prior to the current buyer have been paid.

Complainant filed a rebuttal to Respondent's response stating that none of the appliances are new, and Complainant had to purchase a refrigerator. Respondent also did not repair everything in the inspection report. The air conditioner was leaking anti-freeze. Respondent was supposed to have a qualified HVAC professional to service it but did not. Complainant stated that the stolen meter is something that would not have been discovered until after closing during the inspection to install services because they have the capabilities to do so. Prior to the sale the utility services had been turned on illegally and were not in Respondent's name, so Respondent could not have paid them.

Office of legal counsel requested the transaction file, and it appears that the inspection and resolution period was set for fourteen (14) days from the binding agreement date and final inspection was set for three (3) days prior to closing. Further, a Tennessee Residential Property Condition Exemption Notification was submitted and accepted by Complainant stating that this was a transfer of property, and the owner has not resided on the property at any time within three (3) years of date of transfer. An inspection was held within the proper timeframe, and it appears that the home closed approximately one (1) month after inspection. There was no documentation provided, indicating that repairs were requested pursuant to the home inspection.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**31. 2014020511  
Opened: 9/29/14**

**First License Obtained: 4/25/02**

**License Expiration: 12/28/2016**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

TREC filed a complaint against Respondent, principal broker, for failure to supervise the Respondent agent from the previous case no. 2014020481 (hereinafter "Affiliate Broker"). Respondent states that Respondent has spoken with Affiliate Broker, and Affiliate Broker is willing to work out the issues of the complaint with Complainant.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**32. 2014020571 (unlicensed)  
Opened: 9/11/14**

**History: 2014020021 Under Review**

Complainant, a licensed affiliate, received information from a law firm in Illinois that someone at Respondent's company was representing himself as Complainant and using Complainant's license number in trying to perpetuate a real estate scam on a client of the Illinois attorney, who sent paperwork his client received and signed. Complainant emailed the Commission office to advise them of person fraudulently using Complainant's name involving a timeshare in Mexico. Complainant also contacted the local police department and filed a report on this matter. The Commission office informed Complainant that the Commission does not have jurisdiction over the fraudulent use of Complainant's name, but would send notice of Cease and Desist and would note the situation in Complainant's license file.

There was no response received from Respondent in this matter. The certified letter was returned "not deliverable as addressed."

**Recommendation: Cease and Desist Letter, regarding the unlicensed use of Complainant's name and license number.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**33. 2014020651  
Opened: 10/22/14**

**First License Obtained: 10/10/03**

**License Expiration: 7/27/15**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

Complainant states that Respondent (affiliate broker) assisted Complainant in submitting two offers to purchase properties, both of which fell through. Complainant alleges that Complainant was unaware that Complainant executed an Exclusive Buyer Representation Agreement (for a term of March 6, 2014 through June 30, 2014) when executing the first offer, stating that Respondent never mentioned the document and Complainant had no further contact with Respondent after the deals fell through. Respondent contacted Complainant on or about May 27, 2014 inquiring about a home Complainant had under contract and stating that the Buyer Representation Agreement provides for Complainant to pay Respondent a 3% commission. The document is electronically signed and each page is initialed. Complainant consulted an attorney and paid Respondent's firm a sum of \$3,000 and the Buyer Representation Agreement was mutually canceled on July 29, 2014.

Respondent states that Respondent presented Complainant with the TAR documents "Working with a Real Estate Professional" and "an Explanation of Terms" to explain the roles and duties of an agent. Respondent also acknowledges that Complainant signed the last page of the Buyer Representation Agreement and initialed every page. Respondent also states that Complainant signed a Confirmation of Agency status indicating representation for the two contracts Respondent wrote for Complainant. Respondent states that there was an ongoing business relationship which included multiple communications, showing homes, discussions regarding listing Complainant's current home, and purchasing a home. Respondent submits that Respondent followed all policies and procedures and believes this complaint to be without merit.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**34. 2014020661**

**Opened: 9/9/14**

**First License Obtained: 12/1/00**

**License Expiration: 1/22/15**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

TREC opened a complaint against Respondent (principal broker) for failure to supervise previous Respondent in case no. 2014020651 (hereinafter "affiliate broker"). Respondent states that as a broker/owner, Respondent strives for professional workmanship and directly ensures that all clients receive professional service. Respondent states that affiliate broker followed the strict guidelines of TREC laws and rules and acknowledges that Complainant signed the Buyer Representation Agreement as well as a release form agreeing to pay the commission.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**35. 20140020691**

**Opened: 9/29/14**

**First License Obtained: 10/12/12**

**License Expiration: 10/11/16**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

Complainant works for an insurance company and states that Respondent posted on social media accounts that are used to promote Respondent's business that consumers should not use Complainant's insurance firm because federal charges were brought against Complainant for stealing. Complainant states that there is zero truth to the statement. Complainant states that this malicious attempt to harm Complainant's business is unprofessional and unethical. Complainant alleges that Respondent has violated the Code of Ethics and Standards of Practice of the National Association of Realtors; Complainant has also filed a complaint with the local chapter for the Association of Realtors.



Respondent states that the social media posts do not mention Complainant's name or company name, were not directed at Complainant, and Complainant also posted on social media in response. Respondent states that Respondent found out later that Complainant was involved in a lawsuit similar to the one Respondent read about and posted about. Respondent states that the post was meant to protect Respondent's clients but was deleted in order to avoid hurting anybody's business.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner McMullen made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Hills; motion pass unanimously.**

**36. 20140020711  
Opened: 9/23/14**

**First License Obtained: 6/14/00**

**License Expiration: 12/4/16**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: 2014018761 under review**

TREC opened a complaint against Respondent (principal broker) for failure to supervise previous Respondent in case no. 2014020691 (hereinafter "affiliate broker"). Respondent states that affiliate broker had been employed at Respondent's firm for less than thirty (30) days and violated a work agreement which stated that affiliate broker would conduct business and habits to increase good will, business profits, and to abide by all laws and regulations as set forth by the Code of Ethics of the national Association of Realtors and TREC. Respondent states that after receiving a call from the Complainant in case no. 2014020691 (hereinafter "previous complainant"), Respondent instructed affiliate broker to remove the posts and to separate personal and professional social media accounts. Respondent also states that affiliate broker's employment at the firm will be determined by the outcome of the two complaints. Respondent further states that an attorney is drafting a social media policy but requests guidance in situations where it is hard to control how affiliates may react.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner McMullen made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Collins; motion pass unanimously.**

37. **2014020721**  
**Opened: 9/8/14**
- First License Obtained: 4/10/08**
- License Expiration: 4/9/16**
- E&O Expiration: 1/1/15**
- Type of License: Affiliate Broker**
- History: No history of disciplinary action.**

A complaint was filed against Respondent stating that Respondent has been operating on an expired license since April 9, 2014. Complainant states that Respondent closed on twenty-four (24) properties during the time period in which Respondent's license was expired.

Respondent states that Respondent spoke with TREC on August 19, 2014, emailed the executed forms and overnighted the original forms with the \$1,000 reinstatement check to TREC. Respondent states that Respondent confirmed on August 20 receipt of the forms and received an email on August 21 stating that Respondent's license was reinstated. Respondent states that the lapse was an oversight and did not realize the renewal had not been paid until Respondent's firm's owner notified Respondent. Respondent included copies of transactions completed between April 9, 2014 and July 22, 2014.

**Recommendation: Consent Order with a civil penalty in the amount of \$250 for unlicensed activity in violation of T.C.A. §§ 62-13-102(4)(A), 62-13-103, 62-13-301, and 62-13-312(b)(14), plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents' execution of Consent Order.**

**DECISION: The Board authorized Dismissal.**

**Commissioner McMullen made a motion to dismiss; motion seconded by Chairman Griess; motion pass with 4 yes and 1 no by Commissioner Hills.**

38. **2014020731**  
**Opened: 9/22/14**
- First License Obtained: 2/5/13**
- License Expiration: 2/4/15**
- E&O Expiration: 1/1/15**
- Type of License: Principal Broker**
- History: No history of disciplinary action.**

TREC opened a complaint against Respondent (principal broker) for failure to supervise previous Respondent in case no. 2014020721 (hereinafter “affiliate broker”). Respondent states that TREC sent two (2) letters notifying affiliate broker that additional CE credits were needed prior to license renewal and affiliate broker told Respondent that they were in progress. Respondent states that affiliate broker completed CE courses by February 2014 in anticipate of the April 2014 renewal. Respondent states that no additional correspondence was received by TREC regarding affiliate broker’s renewal. Respondent states that licenses are on display by the office door and nobody noticed the expiration date on affiliate broker’s license and it was an unintentional mistake. Respondent states that affiliate broker’s work is overseen by Respondent and the owners of the company and apologizes for missing the renewal date and intends to enter expiration dates for all licensees and E&O insurance on the master calendar in an effort to prevent any similar occurrence.

**Recommendation: Consent Order with a civil penalty in the amount of \$250 for failure to supervise in violation of T.C.A. § 62-13-312(b)(15), plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents’ execution of Consent Order.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Chairman Griess made a motion to accept recommendation of legal counsel for Consent Order with a civil penalty in the amount of \$250 for failure to supervise in violation of T.C.A. § 62-13-312(b)(15), plus attendance at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondents’ execution of Consent Order; motion seconded by Commissioner Collins; motion pass unanimously.**

**39. 2014020831**

**Opened: 9/22/14**

**First License Obtained: 1/25/09**

**License Expiration: 11/24/15**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

A complaint was filed by a buyer alleging that Respondent, affiliate broker and listing agent, intentionally and fraudulently misrepresented information and failed to disclose adverse facts to Complainant regarding the condition of the home, as follows: the home was listed as 15 years old but was built in 1992, the home was listed as city sewer but is on a septic tank, all rooms stated heat and air but the bonus room does not heat, roof is listed as being replaced three (3) years ago but has already needed repairs for leaks. Complainant further states that only the air conditioning units were inspected and not the entire HVAC and the windows were painted shut. Complainant states that Complainant has suffered damages in approximately \$3,500 for repairs and attorney’s fees.

Respondent states that with regard to the age of the home, the property disclosure which states the home is 15 years old is a product of the seller, but the MLS clearly states that the home was built in 1992. With regard to the claim of city sewer, Respondent used the information provided to Respondent by sellers to list the home. Respondent further states that seller reported on the property disclosure that all rooms had heat and air, and this was not reported in the home inspection. Seller reported that the roof was replaced three (3) years ago and this it was a 50 year shingle roof. Respondent further states a request was submitted for an HVAC system check and to provide a receipt to Complainant as requested. Respondent states that the firm reported coils were cleaned and operations were checked for both systems. Respondent states that Respondent provided information as submitted by the seller in the property disclosure and agents are not authorized to make any changes to the document. Respondent states that Complainant had a home inspection and requested certain repairs by agreement.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Hills made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Collins; motion pass unanimously.**

**40. 2014020851  
Opened: 9/22/14**

**First License Obtained: 7/31/87**

**License Expiration: 2/26/15**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

TREC opened a complaint against Respondent (principal broker) for failure to supervise previous Respondent in case no. 2014020831 (hereinafter "affiliate broker"). Respondent submitted materially similar information with regard to the allegations of the complaint. Respondent further states with regard to supervision, that Respondent holds monthly meetings with agents and has several classes per month to review procedures, forms, etc. Respondent states that affiliate broker teaches other agents regarding the Authentisign Program, which was used during this transaction. Respondent further states that affiliate broker is one of the most experienced agents in the firm and has performed most satisfactorily during the time affiliate broker has been at the firm.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**



**41. 2014020861**  
**Opened: 9/22/14**

**First License Obtained: 7/9/10**

**License Expiration: 7/8/16**

**E&O Expiration: 1/1/15**

**Type of License: Time Share Salesperson**

**History: No history of disciplinary action.**

Complainants state that a purchase was made with a timeshare company and were told that because they purchased the smaller package they would not be able to go to the “best resorts,” but would have a lot to choose from, but their time would not be restricted. Complainants state that they attended a second meeting with Respondent with the intention of learning how to maximize their ownership benefits. Complainants state that Respondent was extremely aggressive and easily angered. Complainants allege that Respondent told them they would not be able to use their points during peak season unless Complainants moved to VIP status, which meant purchasing more points. Complainants did not know that they would be making a completely different purchase and are confused as to why Complainants were not offered a loan for the second purchase. Complainants state that Respondent offered no maintenance fees or club fees due for six (6) months, but Complainants allege that Respondent did not mention the additional fees. Complainants state that Respondent stated that due to the low purchase price, Complainants would be able to sell immediately and make a profit or Complainants could rent out the extra points and use that profit to pay their loan. Complainants state they were told they could use their points for discounts at other hotels, resorts, rental cars, plane tickets, etc. Complainants further state that Respondent falsified Complainants income on the application in order to obtain an unsecured credit card. Complainants state that Complainants told Respondent they could not afford it, but Respondent stated they could apply for new credit cards with lower interest rates. Complainants state they did not know the final cost of the upgrade until Respondent presented two credit cards to Complainants. Complainants state that while signing the contract they were not told that the interest rates on the cards would increase in six (6) months.

Respondent states that Complainants submitted outlandish accusations and denies the allegations of statements made. Respondent states that Complainants were introduced to the sales manager, and Complainants inquired as to what recommendation Respondent would have. Respondent states that Respondent recommended the VIP package. Respondent states that their original purchase was a point system that already included discounts, which Complainants should already have known about. Respondent denies making any statements regarding increase or decreasing in value and states that Complainants were advised to speak with the timeshare company’s affiliated firm if they were interested in selling. Respondent further states that the maintenance fees of club fees were waived during their first purchase and believes that Complainants confused Respondent with their original sales representative. Respondent denies encouraging Complainants to increase their income and states that Respondent told Complainants to account for their legitimate household income. Respondent states that this accusation cost Respondent a job.

Complainant submitted additional information stating that they have settled with the firm and had their timeshares canceled and money refunded.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

42. 2014020871  
Opened: 9/23/14

First License Obtained: 3/7/90

License Expiration: 4/5/15

E&O Expiration: 10/30/16

Type of License: Principal Broker

History: No history of disciplinary action.

TREC opened a complaint against Respondent (principal broker) for failure to supervise previous Respondent in case no. 2014020851 (hereinafter "Time share Salesperson"). Respondent believes that neither the firm nor its salespersons have done anything wrong and that its sales documents and legal disclosures adequately described the product, cost, usage and cancellation period. Respondent states that as a matter of customer goodwill, Respondent agreed to cancel Complainants' purchase agreement. Respondent denies Complainants' claim that they had no knowledge they were making an additional purchase and states that the Owner Beneficiary Agreement does not state that Complainants' points would be combined. Respondent believes that Complainants' false accusations derive from buyer's remorse.

Both Buyer Owner Beneficiary Agreements were attached and include purchase price, down payment, closing costs, sales tax, amount financed and monthly payment amount. The contracts also include cancellation terms and a statement that "no purchaser should rely upon representations other than those included in this agreement and in the documents referred to herein."

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Chairman Griess made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Hills; motion pass unanimously.**

43. **2014021951**  
**Opened: 9/23/14**  
  
**First License Obtained: 11/29/06**  
  
**License Expiration: 11/28/16**  
  
**E&O Expiration: Uninsured**  
  
**Type of License: Firm**  
  
**History: 2014021291 and 2014021281 Under Review**

44. **2014021961**  
**Opened: 9/23/14**  
  
**First License Obtained: 7/25/12**  
  
**License Expiration: 7/24/16**  
  
**E&O Expiration: 10/30/16**  
  
**Type of License: Time Share Salesperson**  
  
**History: No history of disciplinary action.**

45. **2014021981**  
**Opened: 9/23/14**  
  
**First License Obtained: 4/8/11**  
  
**License Expiration: 4/7/15**  
  
**E&O Expiration: 10/30/16**  
  
**Type of License: Time Share Salesperson**  
  
**History: No history of disciplinary action.**

46. **2014022001**  
**Opened: 9/23/14**  
  
**First License Obtained: 3/9/95**  
  
**License Expiration: 11/20/16**  
  
**E&O Expiration: 10/30/16**  
  
**Type of License: Principal Broker**  
  
**History: No history of disciplinary action.**

This is the same complaint and Complainants from case no. 2014020851. Respondent 1 is the firm, Respondents 2 and 3 were the salespersons regarding Complainant's first purchase, and Respondent 4 is their principal broker. Respondents submitted a joint response and believe that neither the firm nor its salespersons have done anything wrong and that its sales documents and legal disclosures adequately described the product, cost, usage and cancellation period. Respondents state that as a matter of customer goodwill, Respondents agreed to cancel Complainants' purchase agreements. Respondents deny Complainants' claim that they had no knowledge they were making an additional purchase and states that the second Owner Beneficiary Agreement does not state that Complainants' points would be combined. Respondents believe that Complainants' false accusations derive from buyer's remorse.

Both Buyer Owner Beneficiary Agreements were attached and include purchase price, down payment, closing costs, sales tax, amount financed and monthly payment amount. The contracts also include cancellation terms and a statement that "no purchaser should rely upon representations other than those included in this agreement and in the documents referred to herein."

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**



**47. 2014021231**  
**Opened: 9/26/14**

**First License Obtained: 3/29/04**

**License Expiration: 9/19/15**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker, Inactive**

**History: No history of disciplinary action.**

This complaint was filed by Respondent's former principal broker and states that it came to Complainant's attention that Respondent was accepting money orders, security deposits, or rental payments from tenants and not forwarding the payments to the office but instead cashing the money orders. Respondent was broker released on 5/20/14 and Respondent's license was returned on 6/4/14. Complainant states that a criminal lawsuit is pending. Respondent further attached copies of cashed money orders, sworn statements by tenants, and receipts.

Respondent sent a response and was advised by Respondent's attorney not to respond to the allegations due to the criminal charges pending.

Office of legal counsel followed up with Complainant, who stated that there was a hearing in criminal court on November 17, 2014 and the matter was referred to the Grand Jury for indictment. Criminal charges are still pending.

**Recommendation: Consent Order for Litigation Monitoring.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner McMullen made a motion to accept the recommendation of legal counsel for a Consent Order of Litigation Monitoring; motion seconded by Chairman Griess; motion pass unanimously.**

48. **2014021281**  
**Opened: 11/5/14**
- First License Obtained: 11/29/06**
- License Expiration: 11/28/16**
- E&O Expiration: Uninsured**
- Type of License: Firm**
- History: 2014021291 and 2014021951 Under Review**

Complainants requested that Respondent cancel their timeshare alleging that Respondent was deceptive and misleading, and Complainants have not received what was promised. Complainants state that they were told that a timeshare was a real estate investment and tax right off, a timeshare could be resold back to Respondent, Complainants were not notified of exchange fees, Complainants were not told maintenance fees would increase, and the presentation lasted longer than it was supposed to. Complainants allege that Respondent's promotional offers were unlawful. Complainants further state that they have been on a waiting list for over a year to stay at a property promised at the sales presentation. Complainants request cancellation of their timeshare.

Respondent states that records indicate that Complainants purchased a timeshare in November 30, 2012 and that sales documents and legal disclosures were received by Complainants at time of purchase. Respondent states that Complainants also received documentation advising about the terms and conditions involved in membership and usage. Respondent denies wrongdoing in connection with its sales practices and denies claims that Respondent misled Complainants. Respondent states that as a matter of customer satisfaction, and not as an admission of wrongdoing, Respondent has made an offer to release Complainants of their timeshare interest purchase. Respondent states that Complainants accepted the offer and are in the process of finalizing their cancellation.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner McMullen made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Chairman Griess; motion pass unanimously.**

**49. 2014021291**  
**Opened: 9/23/14**

**First License Obtained: 11/29/06**

**License Expiration: 11/28/16**

**E&O Expiration: Uninsured**

**Type of License: Firm**

**History: 2014021951 and 2014021281 Under Review**

A complaint was filed against Respondent (firm) stating that Complainants were led under false pretenses into attending a presentation in order to obtain a week vacation. Complainants state they were told that a timeshare is a good investment, that friends and family could use the resort, and that it could easily be sold, none of which Complainants have been able to do. Complainants state that they were given VIP certificates, an iPad, six (6) months free maintenance fees and 6,000 points for attending the presentation, but the points were expired when Complainants tried to use them. Complainants allege they were told that the points would never expire and would carryover. Complainants state they were not given any time to carefully examine the documents or discuss the deal and Respondent's salesperson took advantage of the fact that Complainants were exhausted. Complainants state they thought they purchased a timeshare location in the mountains where Complainants attended the presentation and were shocked to find out it was actually in another state near the beach. Complainants state they requested cancellation of their timeshare based on misrepresentations but have made no progress with Respondent.

Respondent submitted a response stating that Complainants received sales documents, legal disclosures and documentation advising Complainants of the terms and conditions regarding the membership and usage. Respondent denies any wrongdoing and claims that Complainants were misled. Respondent further denies that Complainants were given a reward for attending the presentation and attached a copy of an alternate media disclosure statement signed by Complainants, acknowledging the iPad was part of the purchase and not a free gift. Respondent also attached a copy of the Maintenance Fee Waiver Certificate. Respondent also attached a bonus certificate for 4,000 points that Complainants signed and denies stating that these points would never expire. Respondent also included a copy of an Owner Confirmation Interview that recaps the key benefits of the terms and conditions contained in the Owner Beneficiary Agreement stating that each item was read aloud to Complainants. Respondent respectfully states that it was up to Complainants to determine if the purchase best suited them, and Respondent includes in their contract, "[Purchaser] may cancel this purchase agreement of a timeshare interest within ten (10) days from the date of this purchase agreement..." Respondent desires to be responsive to Complainants' concerns but does not believe Complainants are entitled to a cancellation as requested and would like to reassure Complainants that Respondent is committed to assist Complainants with their membership.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**50. 2014021671**  
**Opened: 9/23/14**

**First License Obtained: 5/17/07**

**License Expiration: 5/16/15**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

This complaint alleges unprofessional negligence of Respondent and firm. Complainant states that Complainant signed an agreement with Respondent to look at houses, but Respondent showed them only one (1) house and that was after Complainant had found a builder who would build the house Complainant wanted. Complainant did not want the home that Respondent showed Complainant, so Complainant informed Respondent that Complainant would be going forward with the home builder and would no longer need Respondent's services. At that time, Respondent presented Complainant with the Buyer's Representation agreement, and Respondent reacted by sending the Complainant more papers to sign. In those papers was an agreement saying Complainant would pay the broker a \$350 fee. Complainant did not want to pay that extra fee based on the minimal work done by Respondent. Complainant alleges that despite giving Respondent notice of the exact date of the closing, Respondent failed to make the walkthrough or closing because Respondent went on vacation. Complainant stated that Complainant contacted the agency and spoke to the office manager who agreed to forward the message to the Principal Broker. Complainant alleges that the office manager did not forward the message to the Principal Broker but forwarded the complaint directly to the Respondent, which is completely unprofessional. Complainant alleges that the firm never contact Complainant back to discuss the issues with Respondent.

Respondent sent a response to the complaint stating that after Respondent entered into a contract with Complainant, issues started escalating. Respondent stated that there seemed to always be an issue with forms Complainant refused to sign, appointments, deadlines that they asked Respondent not attend. Respondent stated Complainant completely shut Respondent out of all the updates of the construction of the home. Respondent claimed that Complainant did not want Respondent involved, but, nevertheless, Respondent stayed connected with the builder, their lender, and the title company up until the day of closing, even on vacation. Respondent stated Respondent paid the \$349 brokerage commission out of Respondent's pocket because Complainant refused to pay it, and the fee is standard on all transaction that close with Respondent's firm. Respondent stated that Complainant signed off on the contract authorizing Respondent as their realtor and authorizing the builder to pay Respondent's commission on the sale of the home the day of closing. Complainant did not pay Respondent's commission at all, so Respondent does not see an issue of them wanting Respondent's firm to reimburse them a payment they never made to begin with. Respondent stated Respondent was told by Complainant not to send anyone to the walkthrough in Respondent's absence. Respondent stated that Complainant just could not be satisfied in this transaction, but that Complainant received great customer service with follow-ups and communication. Respondent included all transaction documents with the response, and it appears that Complainant executed the Exclusive Buyer's Representation Agreement and Confirmation of Agency Status on February 22, 2014.



**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**51. 2014021701  
Opened: 9/23/14**

**First License Obtained: 8/30/10**

**License Expiration: 8/29/16**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

TREC filed a complaint against Respondent, principal broker, for failure to supervise the Respondent agent from the previous case no. 2014021671(hereinafter "Affiliate Broker").

Respondent sent a response to the complaint stating that Affiliate Broker has been an agent since 2012 and has successfully represented 44 clients without a single complaint. Respondent alleges that the Complainant's behavior and demands stood in the way of Respondent's representation of Complainant. Respondent states Respondent was never contacted by Complainant and asked to forward any message to the Affiliate Broker. Respondent claims that Complainant contracted with Affiliate Broker on a property and then attempted to cut Affiliate Broker out of the transaction and deny Affiliate Broker the commission earned. Respondent stated Respondent would not be forced to have agency agreements if it weren't for people like Complainant. Respondent stated that when Complainant did call the office manager, Complainant verbally abused the manager. Respondent stated that Complainant sought out Affiliate Broker's services and that Affiliate Broker represented Complainant successfully, and the Complainant successfully closed on the home Complainant wanted.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner McMullen made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Chairman Griess; motion pass unanimously.**

**Deputy Commissioner Bill Giannini came to the meeting to introduce Bryan McCormack as the new Assistant Director Brian McCormack.**

**52. 2014021931**  
**Opened: 10/23/14**

**First License Obtained: 9/17/01**

**License Expiration: 5/3/15**

**E&O Expiration: 7/13/15**

**Type of License: Time Share Salesperson**

**History: No history of disciplinary action.**

Complainant has purchased timeshare points from Respondent for multiple years. Complainant was at a timeshare presentation and was told Complainant would receive money in return for 100 referrals but never received it and allege that Respondent's firm never contacted the referrals. Complainant transferred points to different areas and ended up transferring to Tennessee and states that Respondent was the sales representative. Complainant states that Respondent advised Complainant that the firm would rent out the timeshare for Complainant and that Respondent would help Complainant roll over points. Complainant states that Respondent refused to assist later and gave Complainant a different number to call, but that it would cost money to deposit leftover points for use. Complainant requests return of Complainant's money because Respondent's firm promised a product and never delivered. Complainant states that Complainant can no longer afford the timeshare and Complainant has not been successful in refinancing the loan or renting out the timeshare. Complainant states that Respondent's firm sent hardship paperwork to Complainant but Complainant does not want to divulge the information to Respondent and Complainant requested a deed in lieu of foreclosure. Complainant states that Respondent is harassing Complainant for payment due to Respondent's misrepresentations and Complainant's hardship.

Respondent's firm sent a response and states they regret to hear of Complainant's concerns and apologized for any inconvenience Complainant encountered. Respondent believes that Complainant continued to purchase because Complainant was pleased with ownership and Respondent has met Complainant's travel needs. Respondent states that Complainant signed and received the Acknowledgement and Disclosure Statement and an Acknowledgement and Authorization Application for the credit card. Respondent states that Complainant has the right to rent Complainant's ownership but states it is not the best use of Complainant's ownership. Respondent states that Complainant's travel options are based on availability and subject to the rules, regulations, terms and conditions explained in the members' directory. Respondent states the contract documents, including Buyer's Acknowledgement and Your Ownership Review, signed and received by Complainant fully disclose the agreement. Respondent states that after the rescission period, the contract becomes legally binding. Respondent states that Complainant's accounts are severely delinquent and Respondent sent a hardship packet to Complainant upon receipt of information that Complainant has lost income due to lack of business and illness. Respondent denies allegations and states there is no information substantiating the allegations. Respondent plans to contact Complainant to determine a mutual resolution due to their customer loyalty.

Complainant states that Respondent has not adequately responded to the complaint and has not addressed the issues Complainant raised, not has contacted Complainant as promised in Respondent's response.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner McMullen made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Chairman Griess; motion pass unanimously.**

**53. 2014021941  
Opened: 9/29/14**

**First License Obtained: 4/17/02**

**License Expiration: 4/29/16**

**E&O Expiration: 7/13/15**

**Type of License: Principal Broker**

**History: No history of disciplinary action.**

TREC opened a complaint against Respondent (principal broker) for failure to supervise previous Respondent in case no. 2014021931 (hereinafter "salesperson"). Respondent states that at the time of closing, Respondent was not the principal broker but is very familiar with the previous principal broker's duties. Respondent assures the commission that the representatives under Respondent's supervision are well-supervised. Respondent monitors activities and presentations of the licensees on site to ensure they are in compliance with TREC and Respondent's firm. Respondent states the closing documents are covered in detail during a closing and closing persons have a script to go by to ensure certain items are always covered. Respondent states that it is not uncommon to uncover a misunderstanding in closing, and if there is mutual resolution, the closing moves forward. Respondent states that the closing notes from the salesperson states that Complainant's were never told to contact the salesperson for rental assistance.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner McMullen made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Chairman Griess; motion pass unanimously.**

**54. 2014022401**  
**Opened: 9/23/14**

**First License Obtained: 7/1/11**

**License Expiration: 6/30/15**

**E&O Expiration: 1/1/15**

**Type of License: Affiliate Broker**

**History: No history of disciplinary action.**

This complaint alleges that Respondent sent a form letter to everyone in the neighborhood on realty company letterhead, telling them how to appeal their property taxes and supplied them with a Comparative Market Analysis (CMA). Complainant alleges that Respondent crossed into the role of an appraiser when Respondent offered appraisal review services and gave specific appraisals for properties based on square footage. Complainant alleges it is totally within Respondent's right to offer a CMA, but when Respondent interpreted these sales and used them to arrive at a certain value for specific property, Respondent assumed the role of an appraiser. Complainant works for the tax assessor's office.

Respondent sent a response to the complaint stating that Respondent did send a form letter to Respondent's subdivision, as Respondent does multiple times each year with real estate updates that Respondent feels are helpful, informative, and/or beneficial to the community. Respondent stated that the appraised values used were incorrect (as proven by the \$48,400 reduction in property value for tax assessment purposes Respondent received), with no explanation of why. Respondent denies offering appraisal services, as Respondent is not an appraiser. Respondent offered a free CMA, which is within the scope of her professional services and abilities. Respondent stated that in May 2014, Respondent received a postcard from the county tax assessor's office, notifying Respondent of the appraised value on Respondent's residence, for property tax purposes had changed. Since the new value was such a sufficient increase from the previous year with no changes to the property, Respondent was compelled to appeal the unreasonable increase. Respondent was then instructed to fill out a CMA from a licensed Realtor and bring it to the tax assessor for review, which Respondent did. Respondent stated that the tax assessor's office asked Respondent's opinion on the value of the home and then crossed out the tax assessor's value and replaced it with Respondent's. During that week, Respondent stated Respondent had several neighbors complain about unreasonable increase and asked Respondent to prepare a CMA for their homes, so they could also appeal their value. Thus, Respondent mailed out approximately 75 letters to the residents of the subdivision, explaining the appeal process that Respondent had used. The last 2 paragraphs of Respondent's letter stated that Respondent could provide the CMA that listed all the homes that sold in 2013. Respondent was contacted by 10 residents. In each instance, Respondent asked for their specific addresses and prepared an individual CMA for them with their residence showing on the top line for SUBJECT PROPERTY. It was not a "mass appraisal," but 10 individual CMA's exactly as Respondent would prepare for a For Sale By Owner, Expired Listing, Absentee Owner, or any property owner requesting information on recent sales to help establish a market value for their home. Respondent included an example of one of those letters in the legal file. Respondent denies any wrongdoing, as Respondent offered a free service to neighbors, after personally being affected by a grossly inaccurate property tax increase, which was easily adjusted, and acknowledged and thanked in the tax assessor's letter.



**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner McMullen; motion pass unanimously.**

**55. 2014022411**

**Opened: 9/25/14**

**First License Obtained: 4/7/00**

**License Expiration: 3/14/15**

**E&O Expiration: 1/1/15**

**Type of License: Principal Broker**

**History: 2014026421 Consent Order Proposed**

TREC filed a complaint against Respondent, principal broker, for failure to supervise the Respondent agent from the previous case no. 2014022401(hereinafter "Affiliate Broker").

Respondent sent a response to the complaint stating she discussed the complaint with the licensee and denies allegations of wrongdoing. Respondent alleges that the licensee never said she was an appraiser, only providing the public with information. Respondent Affiliate's neighbors had too gotten tax bills that they felt were too high and wanted help form a Realtor to get a CMA that would help in the decision of what the accurate value, according to closed properties in the approved time frame, would be. Respondent Affiliate did what she, as well as others have done in the past, and sent out a letter telling her neighbors that as a Realtor she would be happy to provide them with a CMA. Respondent stated that Respondent Affiliate wanted to make sure she was following approved guidelines, and Respondent told her she was only providing public information that was used all the time, and that Respondent thought it was a good idea to help Respondent Affiliate's neighbors. Respondent stated that Respondent Affiliate never said she was an appraiser, but that she was a Realtor and ready to provide information, if needed.

**Recommendation: Dismiss.**

**DECISION: The Board accepted the recommendation of legal counsel.**

**Commissioner Collins made a motion to accept the recommendation of legal counsel to dismiss; motion seconded by Commissioner Hills; motion pass unanimously.**

### **CONSENT ORDER TRACKING**

Ms. Baird asked if the Commissioners had any questions about the consent order log.

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

Ms. Maxwell presented the following information to the Commission for review via the I-Pads:

## **ARELLO**

Commissioners voted on who will be attending the Mid-Year meeting April 15- 18, 2015 in Albuquerque, NM.

**Chairman Griess made a motion to send Eve Maxwell, Executive Director, Julie Cropp, Legal Counsel, Commissioner Diane Hills, and Chairman John Griess to go to the Arello Mid-Year meeting April 15-18, 2015, and as an alternate Commissioner Gary Blume, Commissioner Janet DiChiara and Commissioner Austin McMullen incase Chairman Griess or Commissioner Diane Hills could not attend; motion seconded by Commissioner McMullen, motion pass unanimously.**

## **EDUCATION COURSES FOR DISCUSSION**

Ms. Maxwell presented the educational courses and instructors set forth on the January, 2015 Education Report for Commission Approval.

**Chairman Griess made a motion to approve J-1 – J-34 courses; motion seconded by Commissioner Hills; motion carries.**

**After lengthy discussion of Road Map to Success (J-35) and Common Self Defense (J-36) Chairman Griess made a motion to wait till February meeting to discuss J35 and J36; motion seconded by Commissioner Hills; motion pass unanimously.**

## **COMMISSIONERS DISCUSSION ON TREC CORE REVIEW**

**Chairman Griess made a motion to approve Commissioner Collins TREC Core Review which is J1; motion seconded by Commissioner McMullen; motion pass unanimously.**

**Earlier during the meeting the Commissioners approved Commissioner Hills J2 TREC Core Review.**

**Commissioner McMullen made a motion to differ Commissioner Franks J3 TREC Core Review until the February meeting; motion seconded by Chairman Griess; motion pass unanimously.**

**Commissioner McMullen made a motion to approver Commissioner Hills J4 TREC Core Review; motion seconded by Commissioner Collins; motion pass unanimously.**

**Commissioner McMullen made a motion to deny approval of Commissioner DiChiara J5 TREC Core Review; motion seconded by Commissioner Hills; motion pass unanimously.**

**Commissioner McMullen made a motion to differ Commissioner Blume J6 & J7 TREC Core Review until the February meeting; motion seconded by Commissioner Hills; motion pass unanimously.**

## **COMPLAINT REPORT**

### **COMPLAINT STATISTICS REPORT**

Ms. Maxwell presented complaint statistics to the Commission. As of December 31, 2014, TREC had a total of 254 open complaints. There have been 177 closed this fiscal year starting 7-1-14 to present and 105 closed with no action, 10 were closed with a letter of warning, 61 with a Consent Order and 1 revocations.

### **Monies Collected 1/1/14 – 12/31/14**

Consent Orders Fees 6,000.00, Reinstatement Fees \$25,000.00, Agreed Citations \$2,400.00, E&O Insurance Penalty \$1,200.00 Total \$34,600.00.

### **COMPLAINTS PRESENTED INVOLVING PROPERTY MANAGEMENT ISSUES**

July, 2014 – December, 2014 total complaints presented to Commission 211.

July, 2014 December, 2014 complaints presented to Commission involving Property Management 28 which is equal to 13.3% of complaints during this time involved Property Management.

### **LICENSING STATISTICS**

Ms. Maxwell presented licensing statistics for the month of December 2014. The statistics presented included tables which compared several years' number of licensees, firms, exams taken, applications approved and renewal percentages. As of December 30, 2014, there were 25,160 active licensees, 903 inactive licensees, retired licensees 7,300, broker release 543, and 38 suspended. There were 397 exams administered in month of December 2014. The total of exams taken year to date is 5,310. There were 162 approved applications in December 2014. Year to date total of approved applications 3,549. The number of licensees in retired or inactive status was 8,203. TREC total number of individual; licensees in active, inactive, retired, and broker release is 33,944. There were 3,833 active firms and 176 retired firms. Grand total of firms and retired firms 4,009. Applications approved in December 2014 were 162.

### **BUDGET**

Ms. Maxwell had previously sent a copy of the budget to the Commissioners for their review. Kimberly Whaley will come to either the January, 2015 or February, 2015 TREC board meeting to go over last fiscal year end budget and answer any questions.

### **E&O UPDATE/QUARTERLY CLAIMS REPORT**

Ms. Maxwell reminded attendees to renew their E&O no later than 12-31-14, TREC is required by statute to suspend license if there is no proof of E&O insurance received. If suspended there is a statutory penalty fee assessed. In order to be placed back into active status proof of E&O insurance must be shown and all penalties paid. As of 1-6-15 8,450 licensees are uninsured.

## **FINGERPRINT UPDATE**

Ms. Maxwell presented an update on the fingerprint reports required as of 1/1/2014 pursuant to TCA 62-13-303(l); since 1-1-2014 there have been 3,637 individuals fingerprinted, 741 had an indication, 3,052 had no indication, and 88 were retaken. In the month of December, 2014, 206 fingerprints were taken, 166 had no indications and 36 showed an indication.

**Chairman Griess adjourned the meeting on Wednesday, 7<sup>th</sup> 2015 at 4:48 p.m.**

**January 8, 2015**

The Tennessee Real Estate Commission convened on Thursday, January 8, 2015 at 9:15 a.m. in Meeting Room 1A of the Davy Crockett Building, 500 James Robertson Parkway, Nashville, Tennessee 37243. The following Commission Members were present: Chairman John Griess, Vice-Chairman Janet DiChiara, Commissioner Austin McMullen, and Commissioner Diane Hills. Absent from meeting are Commissioner Marcia Franks, Commissioner Gary Blume, and Commissioner Wendell Alexander. Others present: Executive Director Eve Maxwell, Honorable Ann Johnson, Assistant General Counsel Robyn Ryan, Assistant General Counsel Keeling Baird, Paralegal Jennaca Smith and Administrative Secretary Kimberly Smith.

The formal hearing of TREC v Monte Mohr 12.18-128154A convened at 9:11 a.m. TREC Meeting January 8, 2014 before Judge Ann Johnson. The case involved the failure to follow advertising guidelines. The licensee/Respondent was the principal broker of Realty Trust Residential, LLC. Currently, Respondent is a broker with Max Elite, LLC d/b/a Re/Max Elite. The Respondent appeared with his lawyer Allen Woods, and after opening statements, the Commission asked the parties to attempt to negotiate a settlement in this matter and then the Commission voted to approve the terms of the settlement. The respondent, Mr. Mohr will pay Civil Penalty of \$500 for violation of TENN. CODE ANN. 62-13-312 (b)(4) and (14) and hearing cost. Mr. Mohr shall attend one regularly scheduled monthly meeting of the Tennessee Real Estate Commission within 180 days of January 8, 2015.

**Chairman Griess adjourned the meeting on Thursday, 8<sup>th</sup> 2015 at 9:48 a.m.**