MINUTES

The Tennessee Real Estate Commission held a meeting September 5, 2018 at 8:30 a.m. CST in Room 1A of the Davy Crockett Tower located at 500 James Robertson Parkway Nashville, TN 37243. The Meeting was called to order by Chairman John Griess.

Chairman John Griess welcomed everyone to the Board meeting.

Executive Director Caitlin Maxwell read the public disclaimer and called the roll. The following Commission Members were present: Chairman John Griess, Commissioner Diane Hills, Commissioner Marcia Franks, Commissioner Richard Douglass, Commissioner Bobby Wood, and Commissioner Fontaine Taylor. Commissioner Johnny Horne, Commissioner Austin McMullen, and Commissioner Gary Blume were absent. Quorum Confirmed. Others present: Chief Counsel Denard Mickens, Assistant General Counsel Anna D. Matlock, Assistant General Counsel Erica Smith, Assistant General Counsel Kelsey J. Bridges, paralegal Amanda Dean, Executive Director Caitlin Maxwell, Education Director Ross White, and board staff Aaron Smith.

The September 5, 2018 board meeting agenda was submitted for approval.

Motion to approve the agenda as amended was made by Commissioner Hills, and seconded by Commissioner Franks. Motion passed unanimously.

Minutes for the August 8, 2018 board meeting were submitted for approval.

Motion to approve the August 8, 2018 minutes as amended was made by Commissioner Hills and seconded by Commissioner Wood. Commission discussed adding Formal Hearing information to the minutes. Motion passed 5-0 with Commissioner Taylor abstaining.
EDUCATION REPORT

Education Director Ross White presented the Education Report to the Commission.

Motion to approve courses S1-S25 was made by Commissioner Wood and seconded by Commissioner Taylor. Motion passed unanimously.

Education Director Ross White presented the instructors to the Commission. Commission requested to pull Eric Kistner and Charity Faile for further discussion. Motion to approve all other instructors was made by Commissioner Franks and seconded by Commissioner Hills. Motion passed unanimously.

Commission discussed Charity Faile. Commission asked Education Director and Legal Counsel if Ms. Faile met the requirements to teach the pre-licensing course. Assistant General Counsel Anna D. Matlock stated Ms. Faile did not meet the requirements to teach the pre-licensing course. Motion to deny was made by Commissioner Franks and seconded by Commissioner Hills. Motion passed unanimously.

Commission discussed Eric Kistner. Motion to approve was made by Commissioner Franks, and seconded by Commissioner Douglass. Motion passed 5-0 with Commissioner Hills abstaining.

LEGAL UPDATE

Assistant General Counsel Anna D. Matlock presented the Commission with information relating to the upcoming Informal Appearance where the Fresh Start Act required pre-approval by the Commission to determine an applicant’s eligibility for licensure.

Motion to hear the upcoming Informal Appearance was made by Commissioner Franks, and seconded by Commissioner Hills. Motion passed unanimously.

EXECUTIVE DIRECTOR’S REPORT

Executive Director Caitlin Maxwell updated the Commission on the billing cost numbers. The Tennessee Real Estate Commission (“TREC”) has filled the auditor’s position, closing all open positions within TREC. Our quarterly newsletter will be going out in the middle of September, and will include information on Errors and Omissions Renewals and Continued Education course renewals.

MEDICAL WAIVER REQUEST

Toni Meola, requested waiver of fees. Motion was made by Commissioner Franks, and seconded by Commissioner Hills to defer for 30 days, waiting a medical statement from the physician. Motion passed unanimously.

PRESENTATION BILL TUNE AWARD

The Commission presented Karen Lowe with the Bill Tune Award for her dedicated service and professionalism in real estate education.
COMMISSION DISCUSSIONS

The chair suggested the Chair/Vice Chairmen vote be moved to the October meeting in hopes of having all Commissioner members present. Commissioner Franks will chair the “Best Practice’s Roundtable” at the ARELLO annual conference. Topics to be discussed include: Advanced commissions and title companies dispersing commission checks at closing. Commissioner Franks requested if other Commissioners have topics for the roundtable to send them to her prior to ARELLO annual conference. The Commission also discussed the October Meeting. Executive Director Caitlin Maxwell stated the October meeting will be held on October 4, 2018 in Gray, Tennessee. The meeting will start at 8:30A.M. (Eastern Standard Time).

Commission Wood updated the Commission on the Auctioneer Task Force.

INFORMAL APPEARANCE

Heather Anderson appeared before the Commission along with Principal Broker George Edrington. Ms. Anderson requested approval to obtain her Affiliate Broker license.

Motion to approve Ms. Anderson was made by Commissioner Franks and seconded by Commissioner Douglass. Motion passed unanimously.

CONSENT AGENDA & LEGAL REPORT

Consent Agenda:

The following cases were presented to the Commission via a Consent Agenda. All cases were reviewed by legal, legal has recommended dismissal. Cases 2018020721, 2018029141, 2018031321, 2018031621, 20180031601, 2018031641, 2018023981 were pulled from the consent agenda.

The motion to approve Cases 1-20 was made by Commissioner Wood and seconded by Commissioner Taylor. Motion passed unanimously.

The motion to approve Cases 21-36 was made by Commissioner Hills and seconded by Commissioner Wood. Motion passed unanimously.

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After further discussion, the Commission unanimously voted to dismiss cases 2018020721, 2018029141, 2018031321, 2018031621, 20180031601, 2018031641, 2018023981.

**Legal Report:**

**Kelsey Bridges**

1. 2018025911
   - Opened: 4/20/2018
   - First Licensed: 10/8/2001
   - Expires: 2/22/2019
   - Type of License: Affiliate Broker
   - History: None

   **Recommendation:** Dismiss/ Close and flag.

   **Decision:** The Commission voted to accept Counsel’s recommendation.

   Motion made by Commissioner Franks and seconded by Commissioner Taylor. The motion passed unanimously.

2. 2018025981
   - Opened: 4/20/2018
   - Expires: 3/31/2020
   - Type of License: Principal Broker
   - History: 2016 Consent Order with $250.00 civil penalty, 6 hours CE in property management for failure to supervise and failure to exercise reasonable skill and care

   **Recommendation:** Dismiss.

   **Decision:** The Commission voted to accept Counsel’s recommendation.

   Motion made by Commissioner Hills and seconded by Commissioner Taylor. The motion passed unanimously.

3. 2018027181
   - Opened: 4/26/2018
   - First Licensed: 10/5/2016
   - Expires: 10/4/2018
   - Type of License: Principal Broker
   - History: 2018 Consent Order for failure to exercise reasonable skill and care with $1,000 civil penalty

   **Recommendation:** Dismiss and open a new complaint to address concerns related to possible violations of Tenn. Code Ann. §§ 62-13-301 and 310.
Decision: The Commission voted to accept Counsel’s recommendation.

Motion made by Commissioner Wood and seconded by Commissioner Hills. The motion passed unanimously.

4. 2018027421
   Opened: 4/27/2018
   First Licensed: 10/12/1982
   Expires: 7/9/2020
   Type of License: Real Estate Firm
   History: None

Recommendation: $1,000 civil penalty for improper dealing pursuant to T.C.A. § 66-32-121(f)(2)(H) and a $500 civil penalty for Respondent’s failure to obtain a receipt for the public offering statement in violation of Tenn. Comp. R. & Regs. 1260-06-.02.

Decision: The Commission voted to accept Counsel’s recommendation.

Motion to accept Counsel’s recommendation for the $1,000 civil penalty was made by Commissioner Hills and seconded by Commissioner Taylor. The motion passed 4-2, Commissioner Griess and Commissioner Douglass voting against. Motion to accept counsel’s recommendation for a $500 civil penalty was made by Commissioner Hills and seconded by Commissioner Taylor. Motion passed unanimously.

5. 201803040
   Opened: 5/8/2018
   First Licensed: 3/27/1975
   Expires: 10/15/2020
   Type of License: Principal Broker
   History: 2017 Consent Order with $2,000 civil penalty for acting for more than one party in a transaction and not being loyal to the interests of the client

Recommendation: $1,000 civil penalty.

Decision: The Commission voted to accept Counsel’s recommendation.

Motion made by Commissioner Taylor and seconded by Commissioner Franks. The motion passed 4-2 with Commissioner Douglass and Commissioner Griess voting against.

6. 2018030011
   Opened: 5/8/2018
   First Licensed: 7/14/1998
   Expires: 8/31/2019
   Type of License: Affiliate Broker
   History: None

Recommendation: Letter of Instruction.
Decision: The Commission voted to authorize a Consent Order requiring a four hour contracts class within 180 days which will not count toward CE credit.

Motion made by Commissioner Wood and seconded by Commissioner Franks. The motion passed unanimously.

Re-Present

7. 2018011061
   Opened: 2/20/2018
   First Licensed: 2/5/1998
   Expires: 2/26/2020
   Type of License: Affiliate Broker
   History: None


8. 2018011091
   Opened: 2/20/2018
   First Licensed: 5/28/2003
   Expires: 6/29/2019
   Type of License: Principal Broker
   History: None

Recommendation: $500 civil penalty for a failure to supervise and Respondent’s attendance at a principal broker core class, above and beyond what is required for maintenance of Respondent’s license, to be completed within 365 days.

Decision: The Commission recommended a $1,000 civil penalty for a failure to supervise and Respondent’s attendance at a principal broker core class, above and beyond what is required for maintenance of Respondent’s license, to be completed within 365 days.

NEW INFORMATION

In the original presentation of this complaint, Counsel overlooked the fact that the affiliate broker was released from Respondent’s firm on February 9, 2016, while the events that formed the basis of the complaint against the affiliate broker began around February 14, 2018. Further, Respondent provided documentation which shows that up until the time the affiliate broker was released, Respondent was active in the supervision of Respondent and the subject transaction.

Counsel recommends this complaint be dismissed.

Recommendation: Dismiss.

Decision: The Commission voted to dismiss this complaint, and open an administrative complaint against the affiliate’s new principal broker.
Motion made by Commissioner Wood and seconded by Commissioner Hills. The motion passed unanimously.

**Erica Smith**

9. 2018025651
   First Licensed: 10/1/2012
   Expires: 9/30/2018
   Type of License: Affiliate Broker
   History: None

**Recommendation:** Letter of Warning for failure to exercise reasonable skill and care in violation of TCA §62-13-403(1).

**Decision:** The Commission voted to dismiss this complaint.

Motion made by Commissioner Wood and seconded by Commissioner Hills. The motion passed 4-2 with Commissioner Douglass and Commissioner Taylor voting against.

10. 2018025691
    Opened: 4/19/2018
    First Licensed: 8/6/2008
    Expires: 8/5/2018
    Type of License: Affiliate Broker - Expired-Grace, Active
    History: None

**Recommendation:** Letter of Warning for failure to exercise reasonable skill and care in violation of TCA §62-13-403(1).

**Decision:** The Commission voted to dismiss this complaint.

Motion made by Commissioner Hills and seconded by Commissioner Wood. The motion passed unanimously.

11. 2018027511
    Opened: 4/19/2018
    First Licensed: 7/6/2003
    Expires: 10/24/2018
    Type of License: Principal Broker
    History: None

**Recommendation:** Letter of Warning for failure to supervise.

**Decision:** The Commission voted to dismiss this complaint.

Motion made by Commissioner Franks and seconded by Commissioner Hills. The motion passed unanimously.

12. 2018025431
    Opened: 4/17/2018
    Type of License: Unlicensed
    History: None
Recommendation: Consent Order assessing a $1,000 civil penalty for unlicensed activity.

Decision: The Commission voted to accept Counsel’s recommendation, and to add cease and desist language.

Motion made by Commissioner Franks and seconded by Commissioner Hills. The motion passed unanimously.

13. 2018026961
  Opened: 4/24/2018
  First Licensed: 11/20/2017
  Expires: 11/19/2019
  Type of License: Affiliate Broker
  History: None

Recommendation: Consent Order assessing a $500 civil penalty for failing to include the firm name and firm number on a social media advertisement.

Decision: The Commission voted to accept Counsel’s recommendation.

Motion made by Commissioner Hills and seconded by Commissioner Wood. The motion passed unanimously.

14. 2018026941
  Opened: 4/24/2018
  First Licensed: 10/16/2015
  Expires: 10/15/2019
  Type of License: Affiliate Broker
  History: None

Recommendation: Consent Order assessing a $500 civil penalty for failing to include the firm name and firm number on a social media advertisement.

Decision: The Commission voted to accept Counsel’s recommendation.

Motion made by Commissioner Hills and seconded by Commissioner Taylor. The motion passed unanimously.

15. 2018026981
  First Licensed: 5/16/2007
  Expires: 5/4/2019
  Type of License: Principal Broker
  History: None

Recommendation: Consent Order assessing a $500 civil penalty for failure to supervise.

Decision: The Commission voted to accept Counsel’s recommendation.

Motion made by Commissioner Taylor and seconded by Commissioner Douglass. The motion passed unanimously.
Recommendation: Letter of Warning for violation of TCA §62-13-312(b)(5) and Rule 1260-002-.09(11)(failure to promptly deposit escrow funds), and violation of Rule 1260-02-.09(13)(commingling).

Decision: The Commission voted to dismiss the complaint against the firm and open an administrative complaint against the principal broker of record at the time the audit was conducted.

Motion made by Commissioner Hills and seconded by Commissioner Franks. The motion passed unanimously.

17. 2018027321
   Opened: 4/25/2018
   Type of License: Unlicensed
   History: None

Recommendation: Consent Order assessing a $1000 civil penalty for engaging in unlicensed activity and Cease and Desist language to be included in the Order.

Decision: The Commission voted to defer this complaint to next month in order to get more information from the Better Business Bureau.

Motion made by Commissioner Griess and seconded by Commissioner Hills. The motion passed unanimously.