



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
TENNESSEE REAL ESTATE COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
615-741-2273
<http://www.tn.gov/commerce/section/real-estate-commission>

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 DISSCUSSIONS

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.

1) 2018020721	12) 2018029341	23) 2018023491	34)2018025571
2) 2018026421	13) 2018029361	24) 2018023541	35) 2018024801
3) 2018026391	14) 2018029931	25)2018024081	36) 2018027301
4) 2018026431	15) 2018031321	26) 2018024161	
5) 2018027441	16) 2018031621	27) 2018023961	
6) 2018027971	17) 2018031601	28) 2018025081	
7) 2018028051	18)2018031641	29) 2018025331	
8) 2018028111	19) 2018031401	30) 2018026741	
9) 2018027831	20) 2018032091	31) 2018026761	
10) 2018028771	21) 2018022961	32) 2018023981	
11) 2018029141	22) 2018023021	33) 2018024251	

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
First Licensed: 1/11/2007
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

Recommendation: \$500 civil penalty for the violation of Tenn. Code Ann. § 62-13-403.

Decision: The Commission voted to issue a \$3,000 civil penalty for the violation of Tenn. Code Ann. § 62-13-403.

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.

16. 2018026191

Opened: 4/23/2018
First Licensed: 2/11/2005
Expires: 6/26/2019
Type of License: Real Estate Firm
History: None

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.