MINUTES

The Tennessee Real Estate Commission held a meeting November 7, 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, Vice-Chairman Marcia Franks, Commissioner Bobby Wood, Commissioner Gary Blume, Commissioner Fontaine Taylor, Commissioner Austin McMullen, and Commissioner Richard Douglass. Commissioner Johnny Horne, was 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 TREC staff member Aaron Smith.

The November 7, 2018 board meeting agenda was submitted for approval.

Motion to approve the agenda was made by Vice Chairman Franks,, and seconded by Commissioner Hills. Motion passed unanimously.
Minutes for the October 4, 2018 board meeting were submitted for approval.

Motion to approve the October 4, 2018 minutes was made by Commissioner Hills and seconded by Commissioner Taylor. Motion passed unanimously.

INFORMAL APPEARANCES

Christopher Burgoon appeared before the Commission along with his Principal Broker Edward Zamora. Mr. Burgoon requested approval to obtain his Affiliate Broker license.

Motion to approve Mr. Burgoon was made by Commissioner Blume, and seconded by Commissioner Wood. Motion passed unanimously.

EDUCATION REPORT

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

Motion to approve courses N1-N33 was made by Vice Chairman Franks and seconded by Commissioner Hills.

Motion to approve Instructors presented was made by Vice Chairman Franks and seconded by Commissioner Hills, with exception to April Beck held for further discussion. Motion passed unanimously.

Further discussion regarding April Beck, a motion to hold approval for 30 days pending updated qualification, and education was made by Commissioner Wood, and seconded by Commissioner Blume. Motion approved unanimously.

EXECUTIVE DIRECTOR’S REPORT

Executive Director Caitlin Maxwell updated the Commission on Errors and Omissions Insurance renewals. In addition to advising the Commission on the vacancy of the Administrative Manager’s position open within the Tennessee Real Estate Commission.

MEDICAL WAIVER REQUEST

Executive Director Caitlin Maxwell, on the behalf of David Taylor, presented before the Commission, the request for waiver of penalty fees for late renewal and license reinstatement due to medical issues.

Motion to approve the medical waiver request was made by Commissioner Hills and seconded by Commissioner Taylor. Motion passed 7-0 with Chairman Griess abstaining.
Executive Director Caitlin Maxwell, on the behalf of Felicia Bivens, presented before the Commission, the request for waiver of penalty fees for late renewal and license reinstatement due to medical issues.

Motion to approve the medical waiver request was made by Commissioner Douglass and seconded by Commissioner McMullen. Motion passed unanimously.

Executive Director Caitlin Maxwell, on the behalf of Sherri Howse, presented before the Commission, the request for waiver of penalty fees for late renewal and license reinstatement due to medical issues.

Motion to approve the medical waiver request was made by Commissioner McMullen and seconded by Vice Chairman Franks. Motion failed 2-6 and the request was therefore denied.

COMMISSION DISCUSSIONS

"Commissioner Lawrence appeared at the meeting to discuss with the Commission the possibility of reducing the amount of meetings per year. No decision was made, but the Commission is taking the proposal under advisement."

INFORMAL APPEARANCE

Attorney David Grimmet appeared before the commission on behalf of Stephanie Reece. He requested to appeal to the commission Ms. Reece’s license revocation. The Commission stated they do not have statutory authority to grant a hearing. No further action was taken.

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. The Commission pulled the following cases for further discussion: 2018033911, 2018039861, and 2018040911. Commissioner Wood made the motion to accept the recommendation of legal counsel for cases 1-33 with the exception of cases 1, 11, and 12; seconded by Commissioner Franks. Motion passed unanimously.

The Commission pulled the following cases for further discussion: 2018038221, 2018038531, 2018039001, 2018034891, 2018036581, 2018071941, and 2018036121. Commissioner Taylor made the motion to accept the recommendation of legal counsel for cases 34-86 with the exception of cases 34-36, 44, 48, 71, and 74.

After further discussion by the Commission, Commissioner Wood made the motion to accept the recommendation of legal counsel to dismiss case 2018033911, seconded by Commissioner Franks. Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept the
recommendation of legal counsel to dismiss case 2018039861, seconded by Commissioner Franks. Commissioner Hills abstained. Motion passed unanimously.

After further discussion by the Commission, case 2018040911 was moved to the legal report.

After further discussion by the Commission, Commissioner McMullen made the motion to move case 2018038221 to the December meeting, seconded by Commissioner Griess. Motion passed unanimously.

After further discussion by the Commission, Commissioner McMullen made the motion to move case 2018038531 to the December meeting, seconded by Commissioner Griess. Motion passed unanimously.

After further discussion by the Commission, case 2018034891 was moved to the legal report.

After further discussion by the Commission, Commissioner Blume made the motion to accept the recommendation of legal counsel to dismiss case 2018036581, seconded by Commissioner Wood. Motion passed unanimously.

After further discussion by the Commission, Commissioner Blume made the motion to accept the recommendation of legal counsel to dismiss case 2018071941, seconded by Commissioner Wood. Motion passed unanimously.

After further discussion by the Commission, Commissioner Blume made the motion to accept the recommendation of legal counsel to dismiss case 2018036121, seconded by Commissioner Wood. Motion passed unanimously.

| 1) 2018033911 | 21) 2018050191 | 41) 2018034051 | 61) 2018057161 | 81) 2018057581 |
| 2) 2018034431 | 22) 2018053081 | 42) 2018034151 | 62) 2018054731 | 82) 2018060971 |
| 3) 2018034831 | 23) 2018054591 | 43) 2018034691 | 63) 2018054501 | 83) 2018067381 |
| 4) 2018036691 | 24) 2018056761 | 44) 2018034891 | 64) 2018054481 | 84) 2018059351 |
| 5) 2018037171 | 25) 2018060931 | 45) 2018035371 | 65) 2018043931 | 85) 2018067901 |
| 6) 2018037081 | 26) 2018061101 | 46) 2018036371 | 66) 2018063511 | 86) 2018064041 |
| 7) 2018038041 | 27) 2018061421 | 47) 2018036741 | 67) 2018060221 |
| 8) 2018041241 | 28) 2018061661 | 48) 2018036581 | 68) 2018061331 |
| 9) 2018038431 | 29) 2018064111 | 49) 2018036981 | 69) 2018065431 |
| 10) 2018039501 | 30) 2018066681 | 50) 2018037291 | 70) 2018069521 |
| 11) 2018039861 | 31) 2018067611 | 51) 2018037331 | 71) 2018071941 |
| 12) 2018040911 | 32) 2018066411 | 52) 2018037331 | 72) 201806876 |
Legal Report:

KELSEY BRIDGES

1. 2018015591
   Opened: 3/8/2018
   First Licensed: 6/6/2008
   Expires: 10/17/2019
   Type of License: Principal Broker
   History: None

Recommendation: Revocation.

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

Motion made by Commissioner McMullen, and seconded by Commissioner Taylor. Motion passed unanimously with Commissioner Hills abstaining.

2. 2018030621
   Opened: 5/10/2018
   First Licensed: 4/12/2016
   Expires: 4/11/2020
   Type of License: Affiliate Broker
   History: None


Decision: The Commission voted to issue a Consent Order with a $500 civil penalty and open an administrative complaint against Respondent’s principal broker for possible violations of T.C.A. § 62-13-309.
Motion made by Commissioner Wood, seconded by Vice-Chairman Franks. Motion passed 6-2 with Commissioner Douglass and Commissioner Blume voting against.

3. 2018034251
   Opened: 5/25/2018
   First Licensed: 3/25/2008
   Expires: 3/24/2020
   Type of License: Affiliate Broker
   History: None

   Recommendation: Letter of Warning.

   Decision: The Commission voted to authorize a Consent Order regarding a licensee’s responsibility to obtain written confirmation of disclosure of any personal interests involved in a real estate transaction in which they are acting in a representative capacity (T.C.A. § 62-13-403(7)(A)) with a $1,000 civil penalty, 3 hour ethics class, and 4 hour contracts class above and beyond what is required for the maintenance of Respondent’s license, to be completed within one hundred eighty (180) days of execution and entry of the Consent Order.

Motion made by Commissioner Blume, and seconded by Commissioner Wood. Motion passed 6-2 with Commissioner Douglass and Vice Chairman Franks voting against.

4. 2018036061
   Opened: 6/4/2018
   First Licensed: 8/4/2005
   Expires: 7/17/2019
   Type of License: Principal Broker
   History: History: 2010 Agreed Order- Failure to maintain E&O insurance; 2016 Consent Order, $24,000 civil penalty and TREC attendance- paying or accepting, giving or charging any undisclosed commission, rebate compensation or profit or expenditures for a principal or in violation of this chapter, and improper, fraudulent, or dishonest dealing

   Recommendation: $1,000 civil penalty.

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

Motion made by Commissioner McMullen, seconded by Commissioner Hills. Motion passed 6-2 with Commissioner Douglass, and Commissioner Wood voting against.
5. 2018036881
   Opened: 6/6/2018
   First Licensed: 5/3/2011
   Expires: 5/2/2019
   Type of License: Affiliate Broker
   History: None

Recommendation: Letter of Warning.

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

Motion made by Commissioner Wood, seconded by Vice Chairman Franks. Motion passed unanimously.

6. 2018037271
   Opened: 6/8/2018
   First Licensed: 5/5/2008
   Expires: 5/4/2020
   Type of License: Affiliate Broker
   History: None

Recommendation: Letter of Warning

Decision: The Commission voted to issue a Consent Order with a $1,000 civil penalty and a 4 hour contracts class above and beyond what is required for the maintenance of Respondent’s license, to be completed within one hundred eighty (180) days of execution and entry of the Consent Order. The Commission also voted to open a complaint against the co-agent.

Motion made by Commissioner Wood, seconded by Commissioner McMullen. Motion passed unanimously.

7. 2018038171
   Opened: 6/12/2018
   First Licensed: 6/28/2018
   Expires: 6/27/2020
   Type of License: Vacation Lodging Service
   History: None

Recommendation: Letter of warning.
Decision: The Commission voted to dismiss the complaint.

Motion made by Commissioner Wood, seconded by Vice Chairman Franks. Motion passed unanimously.

8. 2018038831
   - Opened: 6/14/2018
   - First Licensed: 6/23/2014
   - Expires: 6/22/2018
   - Type of License: Affiliate Broker, Expired
   - History: None

Recommendation: $250 civil penalty for unlicensed activity.

Decision: The Commission voted to defer this until the December meeting and to recommend that Respondent become licensed before that time.

Motion made by Commissioner McMullen, seconded by Commissioner Hills. Motion passed unanimously.

9. 2018038611
   - Opened: 6/14/2018
   - Type of License: Unlicensed
   - History: None

Recommendation: $250 civil penalty for unlicensed activity.

Decision: The Commission voted to authorize a Consent Order with a $1,000 civil penalty for unlicensed activity.

Motion made Commissioner Blume, seconded by Commissioner Wood. Motion passed 6-2 with Commissioner McMullen, and Commissioner Douglass voting against.

10. 2018038961
    - Opened: 6/14/2018
    - First Licensed: 4/9/2018
    - Expires: 4/8/2020
    - Type of License: Vacation Lodging Service
    - History: None

Recommendation: $250 civil penalty.

Decision: The Commission voted to dismiss this complaint.
Motion made by Commissioner McMullen, seconded by Commissioner Douglass. Motion passed unanimously.

11. 2018038631
   Opened: 6/14/2018
   First Licensed: 7/3/2018
   Expires: 7/2/2020
   Type of License: Vacation Lodging Service
   History: None

Recommendation: $250 civil penalty for unlicensed activity.

Decision: The Commission voted to dismiss this complaint.

Motion made by Commissioner McMullen, seconded by Commissioner Wood. Motion passed unanimously.

12. 2018040911
   Opened: 6/21/2018
   First Licensed: 7/11/2013
   Expires: 7/10/2019
   Type of License: Affiliate Broker
   History: None

Recommendation: Dismiss.

Decision: The Commission voted to issue a Consent Order for failure to exercise reasonable skill and care with a $500 civil penalty and requiring 4 hours of continuing education in contracts above and beyond what is required for the maintenance of Respondent’s license, to be completed within one hundred eighty (180) days of execution and entry of the Consent Order.

Motion made by Commissioner Wood and second by Vice Chair Franks. Motion passed 7-1 with Commissioner Douglass voting against.

NOTE REGARDING THE FOLLOWING COMPLAINT NUMBERS 13 THROUGH 23:
Beginning in or around September, 2018, the Commission started receiving complaints from individuals stating they were contacted (and in some cases, scammed) by entities and individuals claiming to be licensed Tennessee firms and brokers. In each instance, the fraudulent entity or individual was able to provide the name and license number for actual licensees, but provided different contact information. Commission staff and Legal have been working in conjunction
with an investigator from the Attorney General’s office to locate the perpetrators of this fraud as complaints continue to come in, both against and from licensees. Counsel recommends the Commission direct these matters go into “litigation monitoring” so that sufficient time may be afforded to resolve the issues for both the consumers and licensees involved.

13. 2018062551
   Opened: 9/4/2018
   Type of License: Unlicensed
   History: None

Recommendation: Litigation monitoring.

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

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

14. 2018061841
   Opened: 8/29/2018
   Type of License: Unlicensed
   History: None

Recommendation: Litigation monitoring.

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

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

15. 2018061891
   Opened: 8/29/2018
   Type of License: Unlicensed
   History: None

Recommendation: Litigation monitoring.

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

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.
16. 2018059791
   Opened: 8/21/2018
   Type of License: Unlicensed
   History: None

   Recommendation: Litigation monitoring.

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

   Motion made by Commissioner Hills, seconded by Commissioner Taylor.  Motion passed unanimously.

17. 2018052631
   Opened: 8/6/2018
   Type of License: Unlicensed
   History: None

   Recommendation: Litigation monitoring.

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

   Motion made by Commissioner Hills, seconded by Commissioner Taylor.  Motion passed unanimously.

18. 2018050491
   Opened: 7/30/2018
   Type of License: Unlicensed
   History: None

   Recommendation: Litigation monitoring.

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

   Motion made by Commissioner Hills, seconded by Commissioner Taylor.  Motion passed unanimously.

19. 2018064691
   Opened: 9/10/2018
   Type of License: Unlicensed
History: None

Recommendation: Litigation monitoring.

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

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

20. 2018064861
    Opened: 9/12/2018
    Type of License: Unlicensed
    History: None

Recommendation: Litigation monitoring.

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

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

21. 2018065711
    Opened: 9/14/2018
    Type of License: Unlicensed
    History: None

Recommendation: Litigation monitoring.

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

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

22. 2018077591
    Opened: 11/01/2018
    Type of License: Unlicensed
    History: None

Recommendation: Litigation monitoring.

Decision: The Commission voted to accept Counsel’s recommendation.
Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

23. 2018072211
   Opened: 10/12/2018
   Type of License: Unlicensed
   History: None

Recommendation: Litigation monitoring.

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

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

RE-PRESENT

24. 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.

New information:

Recommendation: Dismiss.

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

Motion made by Commissioner Hills, seconded by Vice Chairman Franks. Motion passed 7-1 with Commissioner Wood voting against.

25. 2018024391
    Opened: 4/16/2018
    First Licensed: 8/10/2015
    Expires: 8/9/2019
    Type of License: Affiliate Broker
    History: None
Recommendation: Litigation monitoring.

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

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

New information:

Recommendation: Dismiss.

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

Motion made Vice Chairman Franks, seconded by Commissioner Hills. Motion passed unanimously.

ERICA SMITH

26. 2018038221
   Opened: 7/31/2018
   Type of License: Unlicensed
   History: None

Recommendation: Dismiss.

Decision: The Commission voted to defer this until the December meeting and to recommend that Respondent become licensed before that time.

Motion made by Commissioner McMullen, and seconded by Chairman Griess. Motion passed unanimously.

27. 2018038531
   Opened: 6/14/2018
   Type of License: Unlicensed
   History: None

Recommendation: Dismiss.

Decision: The Commission voted to defer this until the December meeting and to recommend that Respondent become licensed before that time.
Motion made by Commissioner McMullen, and seconded by Chairman Griess. Motion passed unanimously.

28. 2018039001
   - Opened: 6/15/2018
   - Type of License: Unlicensed
   - History: None

Recommendation: Dismiss.

Decision: The Commission voted to defer this until the December meeting and to recommend that Respondent become licensed before that time.

Motion made by Commissioner McMullen, and seconded by Chairman Griess. Motion passed unanimously.

29. 2018034891
   - Opened: 5/29/2018
   - First Licensed: 4/20/2011
   - Expires: 5/30/2019
   - Type of License: Principal Broker
   - History: None

Recommendation: Dismiss.

Decision: The Commission voted to issue a Consent Order for failure to exercise reasonable skill and care with a $500 civil penalty and requiring 4 hours continuing education in contracts above and beyond what is required for the maintenance of Respondent’s license, to be completed within one hundred eighty (180) days of execution and entry of the Consent Order.

Motion made by Commissioner Hills, and seconded by Commissioner Taylor. Motion passed unanimously.

30. 2018038681
    - Opened: 6/14/2018
    - Type of License: Unlicensed
    - History: None
Recommendation: Consent Order assessing a $1,000 civil penalty for unlicensed activity in violation of TCA §62-13-301.

Decision: The Commission voted to defer this until the December meeting and to recommend that Respondent become licensed before that time.

Motion made by Commissioner Taylor, seconded by Commissioner Hills. Motion passed unanimously.

31. 2018029021
   Opened: 4/27/2018
   First Licensed: 8/28/2007
   Expires: 4/14/2019
   Type of License: Principal Broker
   History: None

Recommendation: Dismiss.

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

Motion made by Chairman Griess, seconded by Commissioner Hills. Motion passed unanimously.

32. 2018028961
   Opened: 4/27/2018
   First Licensed: 5/12/1987
   Expires: 9/9/2019
   Type of License: Affiliate Broker
   History: None

Recommendation: Dismiss.

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

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

33. 2018029001
   Opened: 4/27/2018
   First Licensed: 2/16/2018
   Expires: 2/15/2020
   Type of License: Affiliate Broker
   History: None
Recommendation: Letter of Warning for advertising violations and using improper designation in advertisements, as well as opening a complaint against Complainant and/or the principal broker in Complainant 2018029021 above (whomever was the active principal broker for Respondent at the time of the violations).

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

Motion made by Commissioner Hills, seconded by Commissioner Wood. Motion passed unanimously.

34. 2018034471
   Opened: 5/25/2018
   First Licensed: 2/23/1989
   Expires: 8/16/2020
   Type of License: Real Estate Firm
   History: None

Recommendation: Consent Order assessing a $1,000 civil penalty for two trust violations of TCA §62-13-312(b)(5) and (14), and Rule 1260-02-.09(11). Decision: The Commission voted to dismiss this complaint.

Motion made by Commissioner Wood, seconded by Chairman Griess. Motion passed unanimously.

35. 2018030441
   Opened: 5/29/2018
   First Licensed: 08/10/1987
   Expires: 02/15/2019
   Type of License: Principal Broker
   History: 2016047321 Consent Order for failure to supervise with $1,000 civil penalty, 2016059001 Consent Order for failure to respond with $1,000 civil penalty, 2016043491 Consent Order for failure to respond with $500 civil penalty, 20150217251 Consent Order for failure to supervise with $1,000 civil penalty and attendance at one TREC meeting or 6 hour CORE class

Recommendation: Consent Order assessing a $1,000 civil penalty for failure to supervise.

Decision: The Commission authorized a letter of warning and instruction.

Motion passed 7-1 with Commissioner Blume voting against.