



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND
INSURANCE TENNESSEE REAL ESTATE
COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
615-741-2273
<https://www.tn.gov/commerce/regboards/trec.html>

MINUTES

The Tennessee Real Estate Commission held a meeting February 13, 2019 at 8:30 a.m. CST in Room 1-A 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, Vice-Chair Marcia Franks, Commissioner Diane Hills, Commissioner Bobby Wood, Commissioner Geoffrey Diaz, and Commissioner Fontaine Taylor. Commissioner Austin McMullen and Commissioner Richard Douglass 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 TREC staff member Aaron Smith.

The February 13, 2019 board meeting agenda was submitted for approval.

Motion to approve the agenda was made by Vice-Chair Franks, and seconded by Commissioner Diaz. Motion passed unanimously.

Minutes for the January 9, 2019 board meeting were submitted for approval.

Motion to approve the January 9, 2019 minutes was made by Commissioner Diaz, and seconded by Commissioner Taylor. Motion passed 5-0 with Vice-Chair Franks abstaining.

INFORMAL APPEARANCES

Timothy Carter appeared before the Commission along with his Principal Broker Steven

Champion. Mr. Carter requested approval to obtain his Affiliate Broker license.

Motion to approve Mr. Carter was made by Vice-Chair Franks, and seconded by Commissioner Hills. Motion passed 5-1 with Commissioner Wood voting against.

Tiffany Owens appeared before the Commission along with her Principal Broker Susan Jensen. Ms. Owens requested approval to obtain her Affiliate Broker license.

Motion to approve Ms. Owens was made by Commissioner Hills, 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 F1-F29 with the exception of F6 was made by Vice-Chair Franks and seconded by Commissioner Diaz. Motion passed unanimously.

After further discussion a motion was made by Commissioner Hills, and seconded by Vice-Chair Franks to approve F6. Motion passed unanimously.

Motion to approve instructor Laura Fangman was made by Vice-Chair Franks, and seconded by Commissioner Diaz.

Motion passed unanimously. Motion to approve instructors David Davis and Julia McDonald was made by Commissioner Wood, and seconded by Commissioner Hills. Motion passed unanimously.

Motion to approve instructor Eldon Holliday, Jr. was made by Commissioner Hills, and seconded by Commissioner Wood. Motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Caitlin Maxwell updated the Commission on completing their 2019 Conflict of Interest form, the upcoming Spring TAR Spring Conference and the 2019 ARELLO spring conference. Executive Director Maxwell also updated the Commission on the status of the 2019 E&O expirations and renewals.

Printed Correspondence Courses:

The Commission discussed the topic of printed correspondence courses, in a continuation of the January meeting. Director Maxwell discussed the proposal from a meeting with Education Director Ross White, Assistant General Counsel Anna Matlock, and Chief Counsel Denard

Mickens. From the meeting, the group proposed sending a survey to education providers asking questions and soliciting comment on issues throughout the industry. Furthermore, a future roundtable discussion was proposed. The roundtable would be open to all education providers and would allow for the directors, legal, and the instructors to engage in discussion on issues with courses and provide insight and ideas for remediation. Also, the group announced that in accordance with Tenn. Comp. R. & Regs. 1260-05-.07 the Education Director will begin inspecting education courses on a random basis.

The Commission voiced their concerns with printed correspondence courses not meeting the hour requirements and the potential for impropriety. Further discussions on printed correspondence courses and possible rulemaking were deferred. Lastly, based on the appearance from last meeting with D&D School, Commissioner Wood made the motion that in accordance with Tenn. Comp. R. & Regs. 1260-05-.10(1)(a) in violation of Tenn. Comp. R. & Regs. 1260-05-.11(1)(a)(3) to withdraw approval of all post-licensure courses that are printed correspondence courses by D&D School effective March 1, 2019.

LEGAL UPDATE

Legislative:

Assistant General Counsel Anna Matlock updated the Commission of Governor Bill Lee's Executive Order 5 issued on February 1, 2019 to halt all new regulations for the next ninety (90) days across all state executive branch departments. Rules may proceed through inter-departmental approval and all other approvals during this time period, but prevents a new rule or regulation to be filed with Secretary of State's Office.

Option to Buy:

Per a request from the Commission at the December meeting, Assistant General Counsel Kelsey Bridges presented the legal division's review of *Options to Buy*. Assistant General Counsel Kelsey Bridges stated an option to purchase an interest in real estate does not constitute *ownership* of such real estate; rather, an option to purchase merely constitutes the exclusive right to purchase the property at the optioned price. The option is binding upon the optionor (owner), not the optionee (buyer). If an individual exercises their option to purchase and thereby becomes the owner of the property, he or she may then freely transact in that property without an active real estate broker license, as they would clearly fall under the owner exemption (T.C.A. § 62-13-104(A)(1)(a)). On the other hand, if the individual merely possesses the right to purchase the property, then the only interest they have to dispose of is the option to purchase. Further, the definition of "broker" under the T.C.A. § 62-13-102 includes persons who solicit or transact in options to buy, sell, lease, rent, or exchange for property. Thus, an unexercised option does not

exempt a person from the licensure requirement under T.C.A. §§ 62-13-101 *et seq.* In addition, Assistant General Counsel Kesley Bridges confirmed a person who is licensed as a broker under the Tennessee Real Estate Broker License Act of 1974 may transact in options to buy, sell, rent, or exchange property belonging to another.

COMMISSION DISCUSSIONS

Vice-Chair Franks updated the commission on the January ARELLO Leadership Symposium. Information was given, on upcoming ARELLO meetings, and resources. In addition the Annual ARELLO Conference will be held in Denver Colorado in September 2019. Commissioner's discussed attendee's for the Mid-year ARELLO Conference electing Vice-Chair Franks and Commissioner Hills to attend. In addition, Executive Director Maxwell, Assistant General Counsel Matlock, and Education Director Ross White would also attend permitting approval.

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: 2018069511, 2018066821, and 2018073241. Commissioner Hills made the motion to accept the recommendation of legal counsel for cases 1-25 seconded by Commissioner Wood. Motion passed unanimously.

Commissioner Hills made the motion to accept the recommendation of legal counsel for cases 26-48 with the exception of 2018061361, 2018064081, 2018064701, 2018073221, 2018069811, 2018069911, 2018067491 seconded by Commissioner Taylor. Motion passed unanimously.

After further discussion by the Commission, Commissioner Hills made the motion to accept the recommendation of legal counsel to dismiss cases 2018069511 seconded by Vice-Chair 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 2018073241 seconded by Commissioner Taylor. Motion passed unanimously.

After further discussion by the Commission, Commissioner Hills made the motion to accept the recommendation of legal counsel to dismiss case 2018061361 seconded by Vice-Chair 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 2018064081 seconded by Commissioner Hills. Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept the recommendation of legal counsel to dismiss case 2018064701 seconded by Vice-Chair 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 2018073221 seconded by Commissioner Diaz. Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept the recommendation of legal counsel to dismiss case 2018069811 seconded by Commissioner Diaz. Motion passed unanimously.

After further discussion by the Commission, Commissioner Hills made the motion to accept the recommendation of legal counsel to dismiss case 2018069911 seconded by Commissioner Diaz. Motion passed unanimously.

After further discussion by the Commission, Commissioner Hills made the motion to accept the recommendation of legal counsel to dismiss case 2018067491 seconded by Commissioner Wood. Motion passed unanimously.

1) 2018061871	18) 2018074031	35) 2018067201
2) 2018062101	19) 2018074121	36) 2018067561
3) 2018069511	20) 2018074441	37) 2018065601
4) 2018068641	21) 2018062431	38) 2018073221
5) 2018065491	22) 2018040261	39) 2018069811
6) 2018066821	23) 20180425311	40)2018069391
7) 2018070991	24) 2018061221	41)2018069681
8) 2018072321	25) 2018077451	42) 2018069911
9) 2018072421	26) 2018061361	43) 2018067491
10) 2018072251	27) 2018063181	44)2018070531
11) 2018072611	28) 2018064081	45) 2018071371
12) 2018073001	29) 2018064141	46)2018071491
13) 2018074101	30) 2018085301	47) 2018072151
14) 2018073241	31) 2018064461	48)2018072351
15) 2018073341	32) 2018064701	
16) 2018073401	33) 2018065971	

17) 2018074241	34) 2018066941	
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LEGAL REPORT:

KELSEY J. BRIDGES

NOTE REGARDING THE FOLLOWING COMPLAINT NUMBER 1:

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.

1. 2018065731
Opened: 9/19/2018
Type of License: Unlicensed
History: None

Recommendation: Litigation monitoring.

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

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

2. 2018067001
Opened: 9/20/2011
First Licensed: 4/20/2011
Expires: 5/30/2019
Type of License: Principal Broker
History: None

Recommendation: Dismiss.

Decision: The Commission voted to put the case in litigation monitoring.

Motion made by Vice-Chair Franks, seconded by Commissioner Taylor. Motion passed unanimously.

3. 2018070161

Opened: 10/3/2018

First Licensed: 1/30/2018

Expires: 1/29/2020

Type of License: Real Estate Firm

History: None

Recommendation: Dismiss.

Decision: The Commission voted to authorize a Consent Order for a violation of Tenn. Code Ann. §62-13-403(1), reasonable skill and care with a \$250 civil penalty and four hours of mandatory continuing education related to contracts, above and beyond what is required for the maintenance of Respondent's license, to be completed within 180 days.

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

4. 2018047011

Opened: 7/17/2018

First Licensed: 12/9/2013

Expires: 12/8/2019

Type of License: Real Estate Firm

History: None

Recommendation: Revocation based upon Respondent's refusal to produce the requested information pursuant to T.C.A. § 62-13-312(d).

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

Motion made by Vice-Chair Franks, seconded by Commissioner Taylor. Motion passed unanimously.

5. 2018047071

Opened: 9/19/2018

First Licensed: 12/15/2004

Expires: 7/13/2019

Type of License: Principal Broker – E&O Suspension

History: 2010 Consent Order for failure to maintain E&O Insurance

Respondent is the individual owner of the property management/ real estate firm above, and is also individually licensed as a principal broker; however, Respondent's license is currently suspended due to a lapse in errors & omissions insurance coverage.

Recommendation: Revocation based upon Respondent's refusal to produce the requested information pursuant to T.C.A. § 62-13-312(d).

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

Motion made by Vice-Chair Franks, seconded by Commissioner Taylor. Motion passed unanimously.

Re-Present

6. 2018062551

Opened: 9/4/2018

Type of License: Unlicensed

History: None

Recommendation: Referral.

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

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

7. 2018042131

Opened: 6/26/2018

Type of License: Unlicensed

History: None

Prior Recommendation: \$1,000 civil penalty with language directing Respondent to cease and desist from further unlicensed activity.

Prior Decision: The Commission voted to defer this decision.

New Recommendation: Civil penalty in the amount of \$1,000 for unlicensed activity.

New Decision: The Commission voted to accept Counsel's recommendation and to include cease and desist language.

Motion made by Commissioner Wood, seconded by Vice-Chair Franks. Motion passed 5-1 with Chairman Griess voting against.

8. 2018015591

Opened: 3/8/2018

First Licensed: 6/6/2008

Expires: 10/17/2019

Type of License: Principal Broker

History: None

Prior Recommendation: Revocation.

Prior Decision: The Commission voted to accept Counsel's recommendation.

New Recommendation: Discussion.

New Decision: The Commission rejected the settlement offer.

Commissioner Griess ruled no motion made. Therefore rejecting the settlement, proceed to hearing.

ERICA SMITH

9. 2018064391

Opened: 9/11/2018

First Licensed: 12/11/1995

Expires: 6/16/2019

Type of License: Real Estate Firm

History: 2010 Agreed Citation – Escrow Account violation

Recommendation: Dismiss.

Decision: The Commission voted to authorize a Consent Order for a violation of Tenn. Code Ann. §62-13-403(1), reasonable skill and care with a \$500 civil penalty.

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

10. 2018066131

Opened: 9/17/2018

First Licensed: 3/26/2012

Expires: 3/25/2020

Type of License: Principal Broker

History: None

Recommendation: Consent Order assessing a \$2,000 civil penalty for unlicensed activity in violation of TCA §62-13-301.

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

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

11. 2018070641

Opened: 10/5/2018

First Licensed: 7/18/2016

Expires: 7/17/2020

Type of License: Real Estate Firm
History: None

Recommendation: Consent Order assessing a \$2,000 civil penalty for violations of TCA §62-13-301 (unlicensed activity).

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

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

12. 2018072841

Opened: 10/15/2018
First Licensed: 4/7/2005
Expires: 12/25/2019
Type of License: Affiliate Broker
History: None

Recommendation: Consent Order assessing a \$1,000 civil penalty for violation of TCA §62-13-301 (unlicensed activity).

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

Motion made by Commissioner Hills, seconded by Vice-Chair Franks. Motion passed 5-1 with Commissioner Wood voting no.

13. 2018073421

Opened: 10/16/2018
First Licensed: 2/15/2005
Expires: 3/31/2019
Type of License: Principal Broker
History: None

Recommendation: Discuss.

Decision: The Commission voted to revoke Respondent's license based on violation of Tenn. Code Ann. §62-13-312(b)(12).

Motion made by Commissioner Taylor, seconded by Vice-Chair Franks. Motion passed unanimously.

SHILINA BROWN – PRESENTED BY DENARD MICKENS

14. 2017017571

Opened: 3/15/17
First Licensed: 2/2/07
Expiration: 7/8/18

Type of License: Principal Broker
History: None

Prior Recommendation: \$1,000.00 for violation of T.C.A. §62-13-312(b)(15), failure to exercise adequate supervision over activities of licensed affiliate.

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

New Recommendation: Close.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Vice-Chair Franks. Motion passed unanimously.

15. 2017017611

Opened: 3/15/17

First Licensed: 10/13/05

Expiration: 2/23/19

Type of License: Real Estate Broker

History: None

New Recommendation: Close.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Diaz, seconded by Vice-Chair Franks. Motion passed unanimously.

Chairman Griess adjourned the meeting at 1:50PM