



**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 October 10, 2019 at 8:30 a.m. EST at the Farragut Town Hall located 11408 Municipal Center Drive, Farragut, TN 37934. The Meeting was called to order by Chairman John Griess. Chairman 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 Geoffrey Diaz, Commissioner Fontaine Taylor, Commissioner Jon Moffett, Vice-Chair Marcia Franks, Commissioner Bobby Wood, and Commissioner Richard Douglass. Quorum Confirmed. Others present: Executive Director, Caitlin Maxwell, Associate General Counsel Anna D. Matlock, Associate General Counsel Kelsey J. Bridges, Associate General Counsel Kristen Downey, Chief Counsel Denard Mickens, paralegal Amanda Dean, Education Director Ross White, and TREC Staff member Aaron Smith.

The October 10, 2019 board meeting agenda was submitted for approval.

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

Minutes for the September 11, 2019 board meeting were submitted for approval.

Motion to approve the September 11, 2019 minutes was made by Vice-Chair Franks, and seconded by Commissioner Diaz. Motion passed unanimously.

## **INFORMAL APPEARANCES**

Dustin Fisher appeared before the commission with his Principal Broker Charles Rogers seeking permission to obtain his Affiliate Broker's license.

Motion to approve Mr. Fisher was made by Vice-Chair Franks, and seconded by Commissioner Douglass. Motion passed unanimously.

Carlos Mesa appeared before the commission with his Principal Broker Tanya Price seeking permission to obtain his Affiliate Broker's license.

Motion to approve Mr. Fisher was made by Vice-Chair Franks, and seconded by Commissioner Taylor. Motion passed unanimously.

## **EDUCATION REPORT**

Education Director Ross White presented the education report to the Commission.

Motion to approve courses O1-O29 with the exception of O16 and O18-O21 was made by Commissioner Diaz, and seconded by Commissioner Wood. Motion passed unanimously.

After further discussion a motion to Defer O16 to the November meeting was made by Commissioner Diaz, and seconded by Vice-Chair Franks. Motion passed 6-1 with Commissioner Douglass voting against.

After further discussion a motion to approve course O18-O21 was made by Commissioner Taylor, and seconded by Commissioner Diaz. Motion passed unanimously.

Education Director Ross White presented instructor biographies to the Commission.

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

### **Instructor Discussion:**

Commissioner Taylor wished to discuss in further detail requirements for renewals pertaining to education course instructors. Director White informed the Commission of what is required during renewals. Commissioner Taylor stated the education is important to the Commission and the public and wants to ensure that we have the best education instructors. Director White proposed creating a form soliciting feedback from students and associations. While he has yet to receive complaints, Director White stated it is important to let instructors know that evaluation and feedback is important. Vice-Chair discussed potentially using some of the funds from the real estate education and recovery account in regards to refreshing education renewals and

processes. Commissioner Wood stated that different jurisdictions solicit surveys following courses which are sent randomly to different attendees and in return for participation they receive continued education credit. Director Maxwell stated the Commission is looking at an additional education platform to track education and would reach out to other jurisdictions for advice and best practices.

## **EXECUTIVE DIRECTOR'S REPORT**

### **Test Scores:**

Director Maxwell informed the Commissions she would contact PSI to work on getting the test scores added to exam results as soon as possible.

### **Audit:**

Director Maxwell informed the Commission they are looking to immediately clarify what documents are required during the audit process. A meeting was held to discuss feedback about what information is also required to be sent back. This will reduce the amount of information that people are submitting. There will also be discussions about potential different requirements for small firms versus larger firms. The meetings are ongoing and Director Maxwell will update the Commission with information as available.

### **Attorney General Limited Liability Company (“LLC”) Opinion:**

The Attorney General released an opinion pertaining to the ownership exemption and limited liability companies (LLCs). In short, LLCs are permitted to purchase properties, but if the LLC wishes to dispose of a property they would need to acquire a licensed individual. Chief Counsel Mickens updated the Commission that currently there is no push to codify any additional protections for LLCs in the statute, but this is all subject to the will of the legislature. The full opinion can be found at this link: <https://www.tn.gov/content/dam/tn/attorneygeneral/documents/ops/2019/op19-15.pdf>.

## **COMMISSION DISCUSSION**

The Commission discussed presenting former Commissioner Diane Hills with the Bill Tune award.

Motion to present the Bill Tune Aware to former Commissioner Hills was made by Commissioner Taylor, and seconded by Vice-Chair Franks. Motion passed unanimously.

### **ARELLO:**

Vice-Chair Franks updated the Commission on the annual conference held in Denver, Colorado in September. During the conference Vice-Chair Franks was elected President-Elect of ARELLO

for 2020. Vice-Chair Franks also updated the Commission on issues in additional jurisdictions including the impact of cannabis in Denver, short-term rentals, the financial outlook for the real estate market, and continuing education.

**Potential Rule and Statute Changes:**

Commissioner Wood presented the Commission a list of proposed statutory and rule changes he would like made. This includes but is not limited to, requiring business cards be added to the advertising portion of the rules, further rules/statutes for teams, license display requirements, and advertising rules for licensees of other licensee properties.

**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: 2019034141, 2019044261, and 2019044301.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal’s recommendation to dismiss complaints 2019034141, seconded by Vice-Chair Franks Motion passed unanimously.

After further discussion by the Commission, Chairman Griess made the motion to accept legal’s recommendation to dismiss complaints 2019044261, seconded by Commissioner Wood. Motion passed 6-1 with Vice-Chair Franks voting no.

After further discussion by the Commission, Chairman Griess made the motion to accept legal’s recommendation to dismiss complaints 2019044301, seconded by Commissioner Wood. Motion passed 6-1 with Vice-Chair Franks voting no.

<b>1.) 2019033451</b>	<b>21.) 2019045031</b>
<b>2.) 2019033531</b>	<b>22.) 2019044631</b>
<b>3.) 2019033551</b>	<b>23.) 2019033951</b>
<b>4.) 2019033541</b>	<b>24.) 2019033881</b>
<b>5.) 2019034141</b>	<b>25.) 2019034491</b>
<b>6.) 2019034091</b>	<b>26.) 2019037391</b>
<b>7.) 2019034901</b>	<b>27.) 2019038331</b>
<b>8.) 2019034951</b>	<b>28.) 2019039071</b>
<b>9.) 2019035411</b>	<b>29.) 2019039421</b>

10.) 2019035351	30.) 2019043761
11.) 2019036301	31.) 2019044261
12.) 2019037821	32.) 2019044301
13.) 2019037061	33.) 2019043871
14.) 2019037651	34.) 2019045111
15.) 2019038471	35.) 2019045131
16.) 2019038711	
17.) 2019039311	
18.) 2019039981	
19.) 2019040411	
20.) 2019041331	

**LEGAL REPORT:**

**KELSEY BRIDGES**

1. 2019035701  
**Opened: 4/25/2019**  
**Type of License: Unlicensed**  
**History: None**

**Recommendation: \$1,000 civil penalty for unlicensed activity.**

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

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

2. 2019039021  
**Opened: 5/3/2019**  
**Type of License: Unlicensed**  
**History: None**

**Recommendation: Referral to Consumer Affairs.**

**Decision: The Commission voted to accept Counsel's recommendation and to refer this matter to the appropriate District Attorney's Office.**

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

- 3. 2019039691**  
**Opened: 5/7/2019**  
**First Licensed: 10/26/2017**  
**Expires: 10/25/2019**  
**Type of License: Affiliate Broker**  
**History: None**

**Recommendation: Letter of Warning.**

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

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

- 4. 2019040341**  
**Opened: 5/7/2019**  
**First Licensed: 5/13/2016**  
**Expires: 5/12/2020**  
**Type of License: Affiliate Broker**  
**History: None**

**Recommendation: Four hours of continuing education on agency or client representation to be completed within one hundred eighty (180) days above and beyond what is required for the maintenance of Respondent's license.**

**Decision: The Commission voted to accept Counsel's recommendation and to issue an additional \$500 civil penalty.**

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

- 5. 2019044221**  
**Opened: 5/13/2019**  
**First Licensed: 12/15/2016**  
**Expires: 12/14/2020**  
**Type of License: Affiliate Broker**  
**History: None**

**Recommendation: Letter of Instruction.**

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

Motion made by Vice-Chair Franks, seconded by Commissioner Moffett. Motion passed 5-2 with Commissioner Wood, and Commissioner Diaz voting against.

6. **2019044061**  
**Opened: 5/6/2019**  
**First Licensed: 1/11/2007**  
**Expires: 3/31/2020**  
**Type of License: Principal Broker**  
**History: 2016 Consent Order with \$250 civil penalty for failure to supervise and 6 hours CE**

**Recommendation: Dismiss.**

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

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

**KRISTEN DOWNEY**

7. **2019035041**  
**Opened: 4/23/2019**  
**Type of License: Unlicensed**  
**History: None**

**Recommendation: Counsel recommends a One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity.**

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

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

8. **2019036261**  
**Opened: 4/26/2019**  
**First Licensed: 3/24/2008**  
**Expires: 3/23/2020**  
**Type of License: Time Share Registration**  
**History: None**

**Recommendation: Dismiss and refer to the appropriate jurisdiction's real estate commission.**

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

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

**9. 2019037691**

**Opened: 4/30/2019**

**First Licensed: 9/27/2017**

**Expires: 9/26/2019**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation:** Counsel recommends a letter of warning regarding a Respondent's duty of reasonable skill and care. Counsel also recommends a continuing education course.

**Decision:** The Commission voted to issue a \$1,000 civil penalty and to require continuing education in CORE above and beyond what is required for licensure within 180 days of the Consent Order. The Commission also voted to open an administrative complaint against the principal broker for failure to supervise.

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

**10. 2019037951**

**Opened: 4/30/2019**

**First Licensed: 8/19/2009**

**Expires: 8/18/2020**

**Type of License: Time Share Registration**

**History: None**

**Recommendation:** Counsel recommends a civil penalty of \$500.00.

**Decision:** The Commission voted to issue a \$1,000 civil penalty.

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

**11. 2019038301**

**Opened: 5/1/2019**

**First Licensed: 5/6/2016**

**Expires: 5/5/2020**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation:** Counsel recommends a letter of warning to Respondent regarding the requirements of Tenn. Comp. R. & Regs. 1260-02-.11(2) since the Respondent did not disclose the self-representation until after negotiations began.

**Decision: The Commission voted to issue a \$1,000 civil penalty and to require continuing education in contracts above and beyond what is required for licensure within 180 days of the Consent Order.**

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

**12. 2019038481**

**Opened: 5/2/2019**

**First Licensed: 12/5/2018**

**Expires: 12/4/2020**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation: Revocation. Pursuant to T.C.A. § 62-13-312(f) whenever a licensee pleads guilty or is convicted of any offense enumerated in this chapter, the licensee must within sixty (60) days notify the commission and provide the commission with certified copies of the conviction. Counsel contacted Commission staff and to date, Respondent has not informed the Commission of their criminal conviction. Therefore, Respondent's license shall be revoked.**

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

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

**13. 2019040111**

**Opened: 5/7/2019**

**First Licensed: 3/20/2017**

**Expires: 3/19/2021**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation: Counsel recommends a civil penalty of \$500 for violation of T.C.A §62-13-312(3) and Tenn. Comp. R. & Regs. 1260-02-.33.**

**Decision: The Commission voted to issue a \$1,000 civil penalty and to require continuing education in CORE above and beyond what is required for licensure within 180 days of the Consent Order.**

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

**14. 2019040131**

**Opened: 5/7/2019**  
**First Licensed: 3/24/2008**  
**Expires: 3/23/2020**  
**Type of License: Time Share Registration**  
**History: None**

**Recommendation: Dismiss and refer to the appropriate jurisdiction's real estate commission.**

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

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

**15. 2019040401**

**Opened: 5/8/2019**  
**First Licensed: 10/12/2018**  
**Expires: 10/11/2020**  
**Type of License: Affiliate Broker**  
**History: None**

**Recommendation: Discuss. Complainant provided no substantiating evidence to support that Respondent accessed Complainant's personal information by using Respondent's real estate licensee credentials. Counsel does not believe that the commission is the appropriate entity for this complaint.**

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

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

**16. 2019044041**

**Opened: 5/13/2019**  
**First Licensed: 4/12/2005**  
**Expires: 5/10/2020**  
**Type of License: Affiliate Broker**  
**History: None**

**Recommendation: Counsel recommends a letter of warning to Respondent regarding Respondent's obligations under T.C.A. § 62-13-403(6).**

**Decision: The Commission voted to issue a \$500 civil penalty and to require continuing education in property management above and beyond what is required for licensure within 180 days of the Consent Order.**

Motion made by Vice-Chair Franks, seconded by Commissioner Taylor. Motion passed 5-2 with Commissioner Wood, and Commissioner Douglass voting against.

**17. 2019044941**

**Opened: 5/16/2019**

**First Licensed: 7/3/2000**

**Expires: 2/8/2021**

**Type of License: Principal Broker**

**History: None**

**Recommendation:** Counsel recommends a letter of warning regarding the advertising violation. Counsel understands that the publishing company made an error; however, it is the responsibility of the Respondent to monitor the advertisements that are published on Respondent's behalf.

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

Motion made by Commissioner Diaz, seconded by Commissioner Wood. Motion passed 5-1 with Commissioner Taylor voting against, and Commissioner Moffett was absent for the vote.

**18. 2019044501**

**Opened: 5/14/2019**

**First Licensed: 3/24/2008**

**Expires: 3/23/2020**

**Type of License: Time Share Registration**

**History: None**

**Recommendation:** Dismiss and refer to the appropriate jurisdiction's real estate commission.

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

Motion made by Commissioner Diaz, seconded by Commissioner Taylor. Motion passed 6-0 Commissioner Moffett was absent for the vote.

**19. 2019036201**

**Opened: 4/29/2019**

**First Licensed: 3/29/2019**

**Expires: 3/28/2021**

**Type of License: Vacation Lodging Services Firm**

**History: None**

**Recommendation: Dismiss.** Considering that there is an ongoing dispute between the real estate licensee and the general contractor involving the issues regarding the express warranty, this issue should be resolved so that Complainant is able to lodge a complaint against the appropriate entity/licensee. However, Counsel does not believe that disciplinary action via the Commission is the appropriate remedy for the above-mentioned issue. Counsel recommends dismissal.

**Decision: The Commission voted to accept Counsel's recommendation and to refer this matter to the Contractors Board.**

Motion made by Commissioner Wood, seconded by Commissioner Diaz. Motion passed 6-0  
Commissioner Moffett was absent for the vote.

**20. 2019044931**

**Opened: 5/15/2019**

**First Licensed: 2/4/2005**

**Expires: 5/31/2021**

**Type of License: Principal Broker**

**History: None**

**Recommendation: Dismiss.** Under T.C.A. 62-13-104(E) a resident manager for an owner who manages an apartment building where the person's duties include collection of rent is exempt from the Tennessee Real Estate Broker License Act.

**Decision: The Commission voted to defer this complaint until Counsel can receive and review the property management agreement.**

Motion made by Vice-Chair Franks, seconded by Commissioner Wood. Motion passed 6-0  
Commissioner Moffett was absent for the vote.

**Chairman Griess adjourned the meeting at 12:25 p.m.**