



**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 March 11, 2020 at 8:30 a.m. CST at the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, TN 37243. 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, Vice-Chair Marcia Franks, Commissioner Steven Guinn, Commissioner Bobby Wood, Commissioner Joe Begley. Commissioner Jon Moffett, and Commissioner Stacie Torbett, Commissioner Geoffrey Diaz was absent. Quorum Confirmed. Others present: Executive Director Caitlin Maxwell, Associate General Counsel Anna D. Matlock, Associate General Counsel Kristen Downey, paralegal Carol McGlynn, Education Director Ross White, and TREC Staff member Aaron Smith.

The March 11, 2020 board meeting agenda was submitted for approval.

Motion to approve the agenda as amended was made by Vice-Chair Franks and seconded by Commissioner Wood. Vice-Chair Franks requested the minutes include “License Requirement” License Search for “Principals Brokers” be added under the Executive Director’s report. Chairman Griess, advised the commission he would like to review the document to be submitted to the Attorney General for opinion prior to sending. Associate General Counsel Anna Matlock advised the Commission that would not be an issue. Motion passed unanimously.

Minutes for the February 4, 2020 board meeting were submitted for approval.

Motion to approve the February 4, 2020 minutes was made by Vice-Chair Franks and seconded by Commissioner Torbett. Motion passed unanimously.

**INFORMAL APPEARANCES**

Debra Gouge appeared before the commission with her Principal Broker Dwayne Powell to be granted permission to receive her Affiliate Broker license.

Motion to deny Ms. Gouge was made by Vice-Chair Franks and seconded by Commissioner Wood. Motion passed 4-2 with Commissioner Torbett, and Commissioner Moffett voting against. Commissioner Begley abstained.

**Fresh Start Act Analysis:**

Motion that the Criminal charges of “Wire Fraud, Concealment, “Making and subscribing to false income tax returns” directly relate to the Real Estate industry was made by Vice-Chair Franks and seconded by Commissioner Guinn. Motion passed 6-0 with Commissioner Begley abstaining.

Motion that all six (6) factors, and reasonings do apply to the real Estate industry was made by Vice-Chair Franks and seconded by Commissioner Guinn. Motion passed 6-0 with Commissioner Begley abstaining.

Motion was made to adopt the *Fresh Start Act* justification statement was made by Vice Chair Franks, seconded by Commissioner Wood. Motion passed 6-0 with Commissioner Begley abstaining.

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Jacob Edwards appeared before the Commission with his Principal Broker Eric Kistner to be granted permission to receive his Affiliate Broker license.

Motion to approve Mr. Edwards was made by Commissioner Torbett and seconded by Commissioner Guinn. Motion passed 6-0 with Commissioner Begley abstaining

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Anthony Willoughby appeared before the commission to have his license that was Voluntarily Surrendered restored.

Motion to reinstate Mr. Willoughby's Broker license was made by Commissioner Torbett and seconded by Chairman Griess. Motion failed 3-4 with Commissioner Guinn, Commissioner Wood, Commissioner Moffett, and Vice-Chair Franks voting against the motion.

Motion to allow Mr. Willoughby to obtain his affiliate broker license, with completion of both the National and State exam was made by Commissioner Wood and seconded by Vice- Chair Franks. In addition, Mr. Willoughby will lose his “grandfathered” status and be responsible for 16 hours of “continuing education” every renewal cycle. Motion passed unanimously.

**MEDICAL WAIVER**

Rebecca Raines was presented to the commission requesting a medical waiver for Errors and Omissions penalty fees.

Motion to deny the medical waiver was made by Commissioner Wood and seconded by Vice-Chair Franks. Motion passed unanimously.

James Woods was presented to the commission requesting a medical waiver for Errors and Omissions penalty fees.

Motion to approve the Medical Waiver was made by Commissioner Wood and seconded by Commissioner Moffett. Motion passed unanimously.

### **EDUCATION REPORT**

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

Motion to approve courses M1-M32 was made by Commissioner Wood and seconded by Commissioner Torbett except for courses M1 and M14. Motion passed unanimously.

After further discussion, Chairman Griess made the motion to approve course M1. The motion was seconded by Commissioner Wood. Motion passed unanimously.

After further discussion, Vice-Chair Franks made the motion to approve course M14. The motion was seconded by Commissioner Wood. Motion passed unanimously.

Education Director Ross White presented instructor biographies to the Commission.

Motion to approve instructors was made by Commissioner Torbett and seconded by Commissioner Wood. Motion passed unanimously.

Director White presented to the commission a request from a provider to allow a classroom course to be able to use internet means due to the Covid 19 pandemic.

The commission discussed the request and advised that the course could not be completed as an internet course at this time.

### **EXECUTIVE DIRECTOR'S REPORT**

#### **Topics:**

- **Licensing Requirements:** Director Maxwell clarified for the Commission that our statute allows for nonresidents of the State of Tennessee to be licensed through our Worksheet A process. Associate General Counsel Matlock advised the commission that she would present additional information on this topic at the April meeting.
- **License Broker Search:** Director Maxwell informed the Commission that our IT is in the

process of making changes to the current verification site.

- **E&O:** Director Maxwell informed the commission that the increase in sanctions was due to the Errors and Omission penalties/revocation.
- **West TN May Commission Meeting:** Director Maxwell advised the commission that the May meeting would be in Jackson, TN. The meeting will take place at the City Hall of Jackson on May 7<sup>th</sup> and May 8<sup>th</sup> and advised hotel accommodations had been made.
- **ARELLO:** The ARELLO mid-year conference memo paperwork has been submitted. Commissioner Diaz and Commissioner Wood will be attending with Commissioner Begley as backup.
- **April Formal Hearing:** Director Maxwell advised that the April meeting would also include a Formal Hearing.

### **APPEARANCE:**

Cindy Grissom of RISC Insurance and the State of Tennessee errors and omissions insurance provider updated the commission on the number of claims presented the last fiscal year. Attached is her presentation.

### **CONSENT AGENDA & LEGAL REPORT:**

#### **CONSENT AGENDA:**

The following cases were presented to the Commission via a Consent Agenda. All cases were reviewed by legal and legal has recommended dismissal. The Commission pulled the following cases for further discussion: 2019085011, 20190085751, 2019090311, 2019090801, 2019092521, 2019093771, 2019095741, and 2019096281.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaint 2019085751, seconded by Commissioner Begley. Motion passed unanimously.

After further discussion by the Commission, Vice-Chair Franks made the motion to accept legal's recommendation to dismiss complaint 2019090311, seconded by Commissioner Moffett. Motion passed unanimously.

After further discussion by the Commission, Vice-Chair Franks made the motion to accept legal's recommendation to dismiss complaint 2019090801, seconded by Commissioner Moffett. Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaint 2019085751, seconded by Commissioner Torbett. Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaint 2019093771, seconded by Commissioner Torbett. Motion passed unanimously.

After further discussion by the Commission, Vice-Chair Franks made the motion to accept legal's recommendation to dismiss complaint 2019095741, seconded by Commissioner Moffett. Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaint 2019085751, seconded by Vice-Chair Franks. Motion passed unanimously.

1.) 2019085171	21.) 2019092281	41.) 2019090311
2.) 2019085011	22.) 2019092211	42.) 2019090801
3.) 2019085941	23.) 2019093511	43.) 2019092041
4.) 2019086831	24.) 2019094171	44.) 2019092191
5.) 2019086401	25.) 2019094311	45.) 2019092201
6.) 2019086971	26.) 2019094741	46.) 2019092521
7.) 2019085681	27.) 2019095371	47.) 2019093771
8.) 2019085701	28.) 2019097361	48.) 2019095621
9.) 2019086181	29.) 2019097271	49.) 2019095501
10.) 2019086541	30.) 2019097331	50.) 2019095721
11.) 2019086731	31.) 2019097751	51.) 2019095731
12.) 2019086981	32.) 2019095451	52.) 2019095741
13.) 2019088891	33.) 2019096791	53.) 2019095761
14.) 2019089361	34.) 2019097641	54.) 2019096271
15.) 2019088611	35.) 2019088301	55.) 2019096281
16.) 2019089481	36.) 2019088831	56.) 2019081631
17.) 2019090381	37.) 2019088851	
18.) 2019091551	38.) 2019089251	
19.) 2019091501	39.) 2019089331	
20.) 2019091581	40.) 2019090151	

**LEGAL REPORT:**

**KRISTEN DOWNEY**

1. 2019085751  
 Opened: 10/17/2019  
 First Licensed: 11/7/2016  
 Expires: 11/6/2020

**Type of License: Affiliate Broker**  
**History: None**

**Recommendation: Dismiss.** Licensees are allowed to post listings as “coming soon.” Respondent also had permission to post the home renovation process prior to listing the property on the MLS.

**Decision: The Commission requested to defer this matter to the April meeting to allow counsel to obtain dates for the signed listing agreements between the Respondent and their clients.**

**2. 2019084911**

**Opened: 10/14/2019**  
**First Licensed: 9/18/2014**  
**Expires: 10/17/2020**  
**Type of License: Real Estate Broker**  
**History: None**

**Recommendation: Letter of warning regarding Rule 1260-02-.41(1) which prohibits licensees who hold themselves out as a team from establishing a physical location for that team that is separate from the physical location of record of the firm with which they are affiliated.**

**Decision: The Commission voted issue a five hundred dollar (\$500.00) civil penalty and administratively open a complaint against the principal broker.**

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

**3. 2019085021**

**Opened: 10/15/2019**  
**First Licensed: 9/6/1989**  
**Expires: 6/23/2021**  
**Type of License: Real Estate Firm**  
**History: None**

**Recommendation: Civil penalty of \$250 for violation of T.C.A. § 62-13-312(b)(5) and Tenn. Comp. R. and Regs. 1260-02-.09(11).**

**Decision: The Commission voted to dismiss this complaint and administratively open a complaint against the principal broker.**

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

- 4. 2019085051**  
**Opened: 10/15/2019**  
**First Licensed: 3/6/2012**  
**Expires: 3/5/2020**  
**Type of License: Real Estate Firm**  
**History: None**

**Recommendation: \$250 civil penalty for each trust account violation of T.C.A. § 62-13-312(b)(5) and Tenn. Comp. R. and Regs. 1260-02-.09(11) for a total of \$750.**

**Decision: The Commission voted to dismiss this complaint and administratively open a complaint against the principal broker.**

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

- 5. 2019084991**  
**Opened: 10/15/2019**  
**First Licensed: 6/27/2011**  
**Expires: 6/26/2021**  
**Type of License: Real Estate Firm**  
**History: None**

**Recommendation: \$250 civil penalty for each trust account violation of T.C.A. § 62-13-312(b)(5) and Tenn. Comp. R. and Regs. 1260-02-.09(11) for a total of \$750.**

**Decision: The Commission voted to dismiss the complaint and administratively open a complaint against the principal broker.**

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

- 6. 2019085041**  
**Opened: 10/15/2019**  
**First Licensed: 2/19/1998**  
**Expires: 9/6/2020**  
**Type of License: Real Estate Firm**  
**History: None**

**Recommendation: Civil penalty of \$1,000 and CE for violation of 1260-02-.09(13) which expressly prohibits comingling of funds.**

**Decision: The Commission voted to dismiss the complaint and administratively open a complaint against the principal broker.**

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

- 7. 2019085091**
  - Opened: 10/15/2019**
  - First Licensed: 12/12/2017**
  - Expires: 12/11/2019**
  - Type of License: Real Estate Firm**
  - History: None**

**Recommendation: \$1,000 civil penalty and CE for violation of 1260-02-.09(13) which expressly prohibits comingling of funds. PMI payments are required to be made directly to the agent, not through the Principal Broker.**

**Decision: The Commission voted to dismiss the complaint and to administratively open a complaint against the principal broker.**

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

- 8. 2019085441**
  - Opened: 10/16/2019**
  - First Licensed: 4/6/2006**
  - Expires: 11/24/2021**
  - Type of License: Real Estate Broker**
  - History: None**

**Recommendation: Discuss. Is a licensee required to change a listing to “pending” status if it is under a contract that contains a contingency requiring a Buyer to sell their home? The contract provides that the Buyer must be given first right of refusal if the Seller receives a better offer. This, in my opinion, implies that the Respondent may continue to market the property and entertain other offers. If this is the case, I would recommend dismissal of this complaint.**

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

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

- 9. 2019085401**
  - Opened: 10/16/2019**
  - First Licensed: 3/16/2016**
  - Expires: 3/15/2020**
  - Type of License: Affiliate Broker**
  - History: None**

**Recommendation:** \$250 civil penalty for failure to include the firm's telephone number in violation of 1260-02-.12(3)(b) which requires all advertising to include the firm telephone number.

**Decision:** The Commission accepted counsel's recommendation.

**Motion made by Commissioner Wood, seconded by Commissioner Moffett. Motion passed unanimously.**

**10. 2019086321**

**Opened: 10/19/2019**  
**First Licensed: 3/9/1987**  
**Expires: 12/19/2019**  
**Type of License: Affiliate Broker**  
**History: None**

**Recommendation:** Close and flag.

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

**Motion made by Vice-Chair Franks, seconded by Commissioner Wood. Motion passed 6-0 with Chairman Griess abstaining.**

**11. 2019086951**

**Opened: 10/22/2019**  
**First Licensed: 5/15/2017**  
**Expires: 5/14/2021**  
**Type of License: Real Estate Agent – Time Share Salesperson**  
**History: None**

**Recommendation:** Discuss. It is possible that this Respondent may be convicted of a felony and therefore required to report the felony conviction. I recommend that we hold this in abeyance until the conclusion of the criminal case. I have attempted to contact the Respondent for an update, but the Respondent's phone gives a busy signal each time I have tried to make contact.

**Decision:** The complaint is deferred to the April meeting to allow counsel to obtain information regarding the Respondent's possible felony conviction.

**12. 2019089691**

**Opened: 10/29/2019**  
**First Licensed: 5/27/2015**  
**Expires: 5/26/2021**  
**Type of License: Affiliate Broker**  
**History: None**

**Recommendation:** 4 hours of CE in contracts above and beyond what is required for licensure.

**Decision:** The Commission voted to issue a one thousand dollar (\$1000.00) civil penalty and administratively open a complaint against the principal broker for failure to supervise.

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

**13. 2019091301**

**Opened: 11/5/2019**

**First Licensed: 8/26/1991**

**Expires: 6/30/2021**

**Type of License: Real Estate Broker**

**History: None**

**Recommendation:** Discuss. It appears clear that the Complainant intended for the listing agreement to remain in effect until January 2020. Respondent is under the impression that a Realtracs status change indicates that there was a mutual release. I would like to discuss on the record the difference between a Realtracs status change and a mutual release as I believe this information will be beneficial to other licensees. It does not appear to me that Respondent intended any ill will toward Complainant; however, there was an existing listing agreement in place. Since the Respondent has not been disciplined before, I would recommend a letter of warning concerning their behavior.

**Decision:** The Commission voted to send a letter of warning to the Respondent and their principal broker.

**Motion made by Vice-Chair Franks, seconded by Commissioner Moffett. Motion passed 6-0 with Commissioner Wood recusing himself.**

**14. 2019095791**

**Opened: 12/2/2019**

**First Licensed: 5/2/2014**

**Expires: 5/1/2020**

**Type of License: Real Estate Firm**

**History: None**

**Recommendation:** Dismiss and refer to Contractors' board.

**Decision:** The Commission accepted Counsel's recommendation.

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

**15. 2019097561**

**Opened: 12/4/2019**  
**First Licensed: 3/9/2004**  
**Expires: 12/26/2021**  
**Type of License: Principal Broker**  
**History: None**

**Recommendation:** Letter of warning. Tenn. Comp. R. and Regs. 1260-02-.09(9) requires that earnest money shall be disbursed within twenty-one (21) calendar days from the date of receipt of a written request for disbursement. The check was dated May 24, 2019; however, it does not appear that the check was mailed until June 12, 2019 based on an email from Respondent's affiliate broker which stated that the affiliate broker thought that the escrow company would mail the check. Respondent should have sent the earnest money by June 7, 2019.

**Decision:** The Commission voted to issue a Letter of Instruction to Respondent.

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

**16. 2019098491**

**Opened: 12/6/2019**  
**First Licensed: 7/6/2016**  
**Expires: 7/5/2020**  
**Type of License: Real Estate Firm**  
**History: None**

**Recommendation:** Dismiss the Complaint against the firm and open complaint against the listing agent for the misrepresentation on the listing regarding the two-car garage.

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

**Motion made by Commissioner Wood, seconded by Commissioner Moffett. Motion passed unanimously.**

**Re-Presents**

**17. 2018090951**

**Opened: 12/26/2019**  
**First Licensed: 6/29/2010**  
**Expires: 6/28/2020**  
**Type of License: Affiliate Broker**  
**History: None**

**New Recommendation:** Letter of warning regarding reasonable skill and care.

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

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

**18. 2019070921**

**Opened: 8/21/2019**

**First Licensed: 5/22/2017**

**Expires: 5/21/2021**

**Type of License: Affiliate Broker**

**History: None**

**New Recommendation:** Dismiss.

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

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

**ANNA MATLOCK**

**19. 2019096271**

**Opened: 11/25/2019**

**First Licensed: 12/18/1997**

**Expires: 7/6/2020**

**Type of License: Real Estate Firm**

**History: None**

**Recommendation:** Dismiss.

**Decision:** The Commission voted to accept counsel's recommendation to dismiss the complaint and administratively open a complaint against the principal broker.

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

**20. 2019089981**

**Opened: 10/31/2019**

**First Licensed: 06/08/1990**

**Expires: 10/02/2016**

**Type of License: Real Estate Firm – Expired**

**History: None**

**Recommendation: Three Thousand Dollar (\$3,000.00) civil penalty and administratively open complaints against the two (2) unlicensed agents.**

**Decision: The Commission voted to issue a consent order with a sixteen thousand dollar (\$16,000.00) civil penalty to include cease and desist language for unlicensed activity. Also, the Commission voted to administratively complaints against both of the unlicensed agents.**

**Motion made by Commissioner Guinn, seconded by Commissioner Wood.**

**Motion passed 4-3 with Commissioner Torbett, Chairman Griess, and Commissioner Begley voting against.**

**21. 2019093251**

**Opened: 11/14/2019**

**First Licensed: 10/2/2018**

**Expires: 10/1/2020**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation: Five Hundred Dollar (\$500.00) civil penalty.**

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

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

**22. 2019093491**

**Opened: 9/3/2019**

**First Licensed: 3/9/1987**

**Expires: 12/19/2019**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation: Close and flag and refer to the appropriate District Attorney's Office.**

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

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

**23. 2019094241**

**Opened: 11/18/2019**

**First Licensed: 3/3/1993**

**Expires: 8/25/2020**

**Type of License: Principal Broker**

**History: None**

**Recommendation: Five Hundred Dollar (\$500.00) civil penalty.**

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

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

**24. 2019095351**

**Opened: 11/22/2019**

**First Licensed: 8/3/1983**

**Expires: 5/14/2020**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation: Letter of Instruction.**

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

**Motion made by Commissioner Wood, seconded by Vice-Chair Franks. Motion passed 6-0. Commissioner Moffett was not present at the vote.**

**25. 2019095751**

**Opened: 11/23/2019**

**First Licensed: 2/27/2019**

**Expires: 2/26/2021**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation: Five Hundred Dollar (\$500.00) Civil Penalty.**

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

**Motion made by Commissioner Wood, seconded by Vice-Chair Franks. Motion passed 6-0. Commissioner Moffett was not present at the vote.**

**26. 2019095771**

**Opened: 11/23/2019**

**First Licensed: 10/6/2011**

**Expires: 10/5/2021**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation: Five Hundred Dollar (\$500.00) Civil Penalty.**

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

**Motion made by Commissioner Wood, seconded by Commissioner Guinn. Motion passed unanimously.**

**27. 2019096311**

**Opened: 11/25/2019**

**First Licensed: 2/26/2016**

**Expires: 2/25/2020**

**Type of License: Affiliate Broker**

**History: None**

**Recommendation: Five Hundred Dollar (\$500.00) civil penalty.**

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

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

**Re-Presents**

**28. 2019083631**

**Opened: 10/9/2019**

**First Licensed: 4/4/2018**

**Expires: N/A**

**Type of License: Time Share Registration/Exempt**

**History: 2015 Consent Order**

**New Recommendation: Dismiss.**

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

**Motion made by Commissioner Begley, seconded by Commissioner Torbett. Motion passed unanimously.**

**29. 2018067001**

**Opened: 9/20/2011**

**First Licensed: 4/20/2011**

**Expires: 5/30/2019**

**Type of License: Principal Broker**

**History: None**

**New Recommendation: Dismiss.**

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

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

**Note regarding numbers 28 through 30:**

The following three complaints are all against the same Respondent, a licensed principal broker. Each complaint alleges Respondent mismanaged their firm's accounts and escrow funds in the firm's possession. Due to the nature and volume of the complaints, Counsel requested an audit of Respondent's firm accounts. Respondent has been given numerous opportunities to respond to the audit request but has thus far failed to provide any of the requested documents. Respondent failed to respond to the initial audit request which was sent out in April of this year. Thereafter an investigation and request for documentation was opened, but again, Respondent declined to provide the records. Counsel reached out to Respondent in August and spoke with them via telephone some weeks later to stress the importance of receiving the requested materials. Respondent stated they had been in and out of the hospital, but they would attempt to get the records to Commission staff later that week, but again, Respondent failed to provide the records.

**30. 2018072661**

**Opened: 10/15/2018**

**First Licensed: 1/27/1994**

**Expires: 12/22/2020**

**Type of License: Principal Broker**

**History: 2018 Consent Order with \$500 Civil Penalty for failure to supervise**

**Recommendation: Revocation for failure to respond to an audit request in violation of T.C.A. 62-13-312(d).**

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

**31. 2018079561**

**Opened: 11/13/2018**

**First Licensed: 1/27/1994**

**Expires: 12/22/2020**

**Type of License: Principal Broker**

**History: 2018 Consent Order with \$500 Civil Penalty for failure to supervise**

**Recommendation: Revocation for failure to respond to an audit request in violation of T.C.A. 62-13-312(d).**

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

**32. 2019004791**

**Opened: 1/18/2019**

**First Licensed: 1/27/1994**

**Expires: 12/22/2020**

**Type of License: Principal Broker**

**History: 2018 Consent Order with \$500 Civil Penalty for failure to supervise**

**New Recommendation: One (1) year downgrade to Affiliate Broker. Following this year, Respondent will be required to re-satisfy requirements in order to apply for a Principal Broker application. A three thousand-dollar (\$3,000.00) civil penalty and to comply with a new audit within forty-five (45) days of signing the Consent Order.**

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

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

### **LEGISLATIVE UPDATE**

Associate General Counsel Anna Matlock provided the Commission legislative updates on SB2241/HB2342, HB2360, and SB1684.

**Chairman Griess adjourned the meeting at 1:30 P.M.**

# Tennessee Real Estate Commission's Group E & O Insurance Update

Cindy Rice Grissom

Rice Insurance Services Company, LLC

Administrator for Continental Casualty Company, a CNA company

# Rice Insurance Services Company (RISC)

- ▶ RISC is the administrator for the Tennessee Real Estate Commission group errors & omissions (E&O) program.
- ▶ My family has been involved in real estate E&O insurance since 1989 and started writing the group program for Tennessee in 1991 when Tennessee started its mandatory insurance program.
- ▶ We currently provide the programs in 12 of the 14 states with mandatory insurance requirements that have group programs.



# Types of Claims

## Number and Amount of Claims

- ▶ RISC partners with Continental Casualty Company (a CNA company) to offer its E&O programs and we handle the claims made against insureds.
- ▶ Most licensees think a claim will never happen to them. However, over 20,000 real estate E&O claims have been submitted to RISC since 2003, and over 3,700 of those claims were in Tennessee. (Information current as of year end 2019.)
- ▶ Continental Casualty Company has incurred more than **\$149 Million** for damages and claim expenses on behalf of licensees insured through RISC's programs since 2003 (over \$25.2 Million have been paid on closed claims in Tennessee and nearly \$3.5 Million have been incurred for open claims).

# Types of Claims

## Tennessee Claim Files

- ▶ We reviewed the claim files to see the type of demand, the claimant type, the property type and the deal type in claims reported in Tennessee.
- ▶ In addition to claims and potential claims, insureds also may report regulatory complaints and subpoenas as there may be limited coverage for these matters under the policy.
- ▶ Let's look at information regarding Tennessee E&O files (claims, potential claims, regulatory complaints and subpoenas reported in the 2013 - 2019 policy programs).

# Number of Files Per Policy Period

Tennessee Policy Period	Number of Files (Regardless of Coverage)
13 EO 0009TN	409
15 EO 0010TN	401
17 EO 0011TN	478
19 EO 0011TN*	314
TOTAL	1602

\*As of March 5, 2020

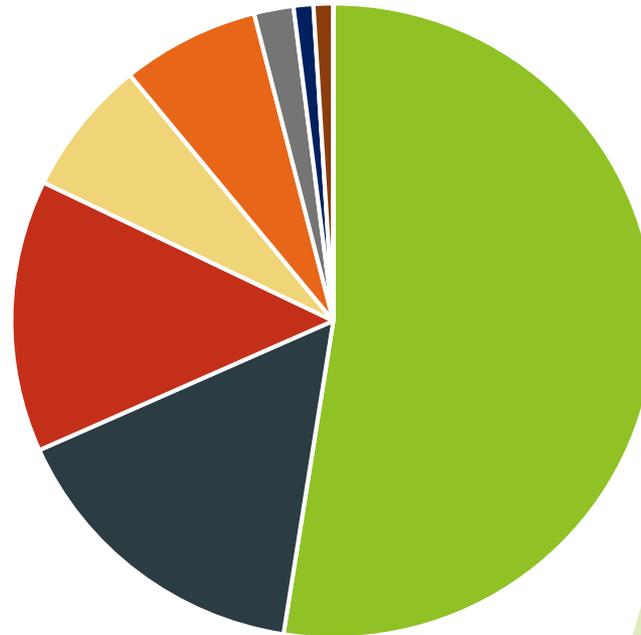
# Tennessee Files -Type of Demand

## Tennessee Files (Regardless of Coverage) 2013 - 2019 Policies, Combined

Litigation	744 (46%)
Non-legal (written demand or potential claim)	527 (33%)
Regulatory complaint only	212 (13%)
Regulatory complaint w/ litigation	49 (3%)
Subpoena	44 (3%)
Regulatory complaint w/ non-legal (written demand)	24 (1%)
Arbitration	2 (<1%)
TOTAL	1602

# What type of Claims are made? Claimant, Property Type, Deal Type

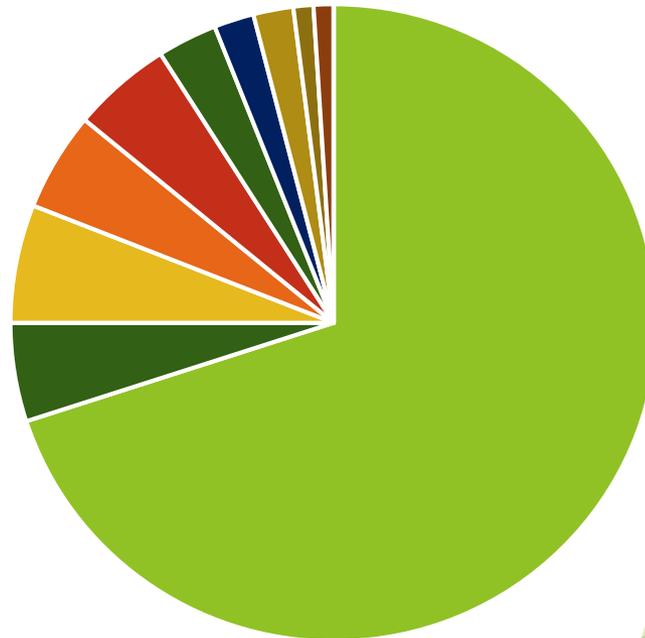
Tennessee Files (Regardless of Coverage) 2013 - 2019 Policies, Combined		
Claimant Type		
Buyer	843	(53%)
Not Classified/Other	257	(16%)
Seller	225	(14%)
Lessor	112	(7%)
Lessee	109	(7%)
Not Available	27	(2%)
Government	9	(1%)
Insurance Company	8	(<1%)
Builder/Developer	6	(<1%)
Inspector/Inspection Company	2	(<1%)
Unit Owner	2	(<1%)
Lender	1	(<1%)
Title Insurance Company	1	(<1%)



# What type of Claims are made? Claimant, Property Type, Deal Type

## Tennessee Files (Regardless of Coverage) 2013 - 2019 Policies, Combined

Property Type	
Residential	1122 (70%)
Property Management	87 (5%)
Not Available / Not Classified	87 (5%)
Vacant	84 (5%)
Commercial	71 (5%)
Condo / Townhouse	47 (3%)
Apartment	29 (2%)
Farm / Agricultural	25 (2%)
REO	15 (1%)
Mobile Home	15 (1%)
Multi-Family Residential Building	7 (<1%)
Other	5 (<1%)
Business	4 (<1%)
Time Share	1 (<1%)

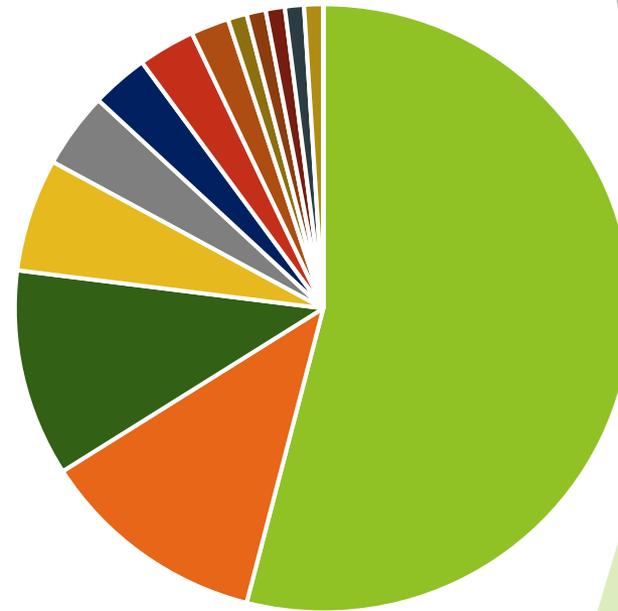


# What type of Claims are made?

## Claimant, Property Type, Deal Type

Tennessee Files (Regardless of Coverage)  
2013 - 2019 Policies, Combined

Deal Type	
Sale	865 (54%)
Property Management	196 (12%)
Contract	171 (11%)
Not Available / Not Classified	103 (6%)
Lease	60 (4%)
Listing Agreement	51 (3%)
Showing of Property	46 (3%)
Construction/ Development Contract	30 (2%)
Offer	18 (1%)
Auction	17 (1%)
Agency	15 (1%)
Lease-Option to Purchase	10 (1%)
REO / Sale of REO	9 (1%)
Appraisal	8 (<1%)
Broker Price Opinion	2 (<1%)
Zoning	1 (<1%)



# Tips to Reduce Risk

These examples help illustrate the type of claims that might be made against a real estate licensee. While a licensee does not have to do anything wrong to be involved in a claim, sound risk management techniques and good documentation can help avoid claims and reduce payments.

## **ALWAYS CREATE A PAPER TRAIL.**

- ▶ Document conversations, recommendations, and activities in a log.
- ▶ Confirm conversations by sending a follow up email.
- ▶ Keep copies of any information you provide to your client or others related to the property or transaction.
- ▶ Keep organized, detailed records of all real estate transactions, including copies of signed documents.

These practices might not keep the licensee from being involved in a claim, but they will help reduce the time and money involved in the defense and resolution of the claim.

# Questions?

- ▶ We hope this information is helpful and we appreciate the Tennessee Real Estate Commission inviting us to report on the Tennessee claims experience.
- ▶ Contact Us!  
Rice Insurance Services Company, LLC  
Online: [www.risceo.com](http://www.risceo.com)  
By Phone: (800) 637-7319 or (502) 897-1876
- ▶ The contract manager for the Tennessee group program is Cindy Rice Grissom. She and RISC's service specialists are always happy to address questions and concerns.

## Executive Director's Report

Profession	Count
Acquisition Agent License	176
Acquisition Agent Registration	42
Acquisition Representative Registration	2,330
Affiliate Broker	30879
Designated Agent	134
RE Broker	7886
Real Estate Firm	4258
Time Share Exempt	160
Time Share Registration	35
Time Share Sale	1092
Vacation Lodging Service	146

License Type	Status	Count
Individual	Active	36,581
Individual	Broker Release	2
Individual	Inactive	1
Individual	Retired	5915
Individual	Suspended	663
Individual	Vol Surrendered	3697
Firm	Active	4573
Firm	Retired	66

## Exams Taken by License Type Cumulative (1/1/2020-2/29/2020):

Test	Tested	Pass	Fail	Percentage Passed	Percentage Failed
TN Acquisition Agent	25	13	12	52.00	48.00
TN Affiliate Broker-National	1551	761	790	49.07	50.93
TN Affiliate Broker-State	1268	975	293	76.89	23.11
TN Broker- National	128	62	66	48.44	51.56
TN Broker- State	125	96	29	76.80	23.20
Timeshare Salesperson	106	76	30	71.70	28.30

## Opened and Closed Complaint Report:

Month	Opened Cases	Closed Cases	Sanctions
3/1/2019-3/31/2019	98	41	5
4/1/2019-4/30/2019	43	48	22
5/1/2019-5/31/2019	100	107	19
6/1/2019-6/30/2019	78	74	35
7/1/2019-7/31/2019	85	74	15
8/1/2019-8/31/2019	87	60	19
9/1/2019-9/30/19	59	118	12
10/1/2019-10/31/2019	75	48	5
11/1/2019-11/30/2019	43	78	6
12/1/2019-12/31/2019	53	81	7
1/1/2020-1/31/2020	62	61	3
2/1/2020-2/29/2020	67	107	4

\*sanctions include complaints closed with consent orders and agreed orders.

**TENNESSEE REAL ESTATE COMMISSION**

Education Agenda **March 11, 2020**

**CR = Classroom  
Webinar=W**

**I = Internet  
PP = Paper & Pencil**

**Courses Presented for Commission Evaluation**

<b>Sponsor/Address/ Contact</b>	<b>Title/Statutory &amp;/or Rule Addressed</b>	<b>Comment</b>	<b>Instructor(s)</b>	<b>Hours</b>
Agent eLearning #1754  Ben Maxwell	Learning Home Measurement (I)  Rule 1260-05-.03(5)(a) <b>M1</b>	Teach the students the methods and procedures for measuring and calculating square footage in detached single-family dwellings. The principles are based on the American National Standard for Single-Family Buildings (ANSI) guidelines.	David Hampton  PREVIOUSLY APPROVED	5
Corey Cleek Real Estate Education <b>NEW #1772</b>  Corey Cleek	Internet Marketing and Web Analytics (CR)  Rule 1260-05-.03(5)(a) <b>M2</b>	To educate and teach the fundamentals of Internet marketing and web analytics.	Corey Cleek  <b>NEED APPROVAL</b>	4
The Columbia Institute #1463  Alisha Tarwater	Appraiser Disaster Readiness (CR)  Rule 1260-05-.03(5)(a) <b>M3</b>	Appraiser disaster readiness is a course that provides the necessary framework for real property appraisers interested in or already completing appraisal on real property after a disaster occurs.	Kevin Hecht Diana Jacob Pam Teel PREVIOUSLY APPROVED	8
Kaplan Real Estate Education #1294  Lisa Goyette	Protecting Elders from Real Estate Scams (I)  Rule 1260-05-.03(5)(a) <b>M4</b>	This course explains the most common types of elder Scams and how real estate professionals can better educate and protect their clients.	John Mathis  PREVIOUSLY APPROVED	4
	Repurposing Property: Friend, Foe, or the American Dream (I) <b>M5</b>	To explore many untapped property opportunities for you and your buyers and sellers and the enormous impact of successful repurposing projects on your communities.		4
Lawyers Land and Title <b>NEW #1773</b>  Katie Caldwell	Title 101: Understanding a Title Company's Process fr Contract to Closing (CR) <b>M6</b>	Teach Realtors what happens after a contract is sent to a title company, the basics of title insurance, and how to listen for red flags.	J. D. Kious  <b>NEED APPROVAL</b>	1

Legacy Mutual Mortgage <b>NEW #1774</b>  Katherine Ragan	Real Estate Safe Practices (CR)  Rule 1260-05-.03(5)(a) <b>M7</b>	To educate agents on screening, showing, hosting safe open houses, safely showing distressed property to include using social media safely.	Tracey Hawkins  PREVIOUSLY APPROVED	3
Knoxville Area Association of Realtors #1092  Carleen Palmer	Fair Housing for Property Management and Landlords (CR) Rule 1260-05-.03 <b>M8</b>	Delves into areas of the Fair Housing Act directly related to and impacting landlords and tenants. Includes how to handle a Fair Housing complaint.	Scott Abernathy  PREVIOUSLY APPROVED	3
	Property Management: TN Landlord and Tenant Act (CR) Rule 1260-05-.03 <b>M9</b>	This course reviews the LTA and explains the Act's various requirements from the perspective of a property manager.		3
	Emotional Intelligence and Real Estate (CR)  Rule 1260-05-.03 <b>M10</b>	To instruct real estate agents on how to implement emotional intelligence skills into their business.	Daniel Park  <b>NEED APPROVAL</b>	2
Memphis Area Association of Realtors #1094  O'Hara Keszler	Inspired Defiance: Why Not You? Why Not Now? (CR)  Rule 1260-05-.03(5)(a) <b>M11</b>	To help the student explore the path of life and business growth; examine the importance of valuing different people and perspectives, to better understand how opportunity and risk are related; all with a servant's mindset.	Travis Everette  PREVIOUSLY APPROVED	2
	Does Your Business Have Bounce? (CR)  Rule 1260-05-.03(5)(a) <b>M12</b>	Learn how future trends will impact how you market and grow; create a solid marketing identity and strategic action plan; learn top tips for maximizing your market design; and discover what works and what doesn't in branding a marketing identity.		2
	What's In It For Me? Be the Agent Everyone Wants to Work With (CR) Rule 1260-05-.03(5)(a) <b>M13</b>	Building better relationships with other agents with the intent to leverage associations to our client's advantage; self-assess customer service skills; communication; and creating service plans.	Maura Neill	2

	Running Your Business in a Low-Inventory Market (CR) Rule 1260-05-.03(5)(a) <b>M14</b>	Low inventory market means a skill set shift. The course will teach how to generate inventory, market to get more listings, handle multiple offers and handling the unrealistic seller, and disappointed buyer.	PREVIOUSLY APPROVED	2
	Negotiate Like a Pro (CR) Rule 1260-05-.03(5)(a) <b>M15</b>	This class will help improve professionalism by maximizing what should be known about the consumer mindset as it relates to being able to effectively negotiate.	Jackie Leavenworth  PREVIOUSLY APPROVED	2
	Stop Talking and Start Closing (CR) Rule 1260-05-.03(5)(a) <b>M16</b>	Teaching real estate professionals to listen more and talk less, equip attendees with real life lessons, and dynamic dialogue that will help communications between them and the consumer.		1
	Highest and Best Use-Building Successful Teams to Maximize Profits (CR) Rule 1260-05-.03(5)(a) <b>M17</b>	Understanding property owner's objectives when managing; strengths of high performing teams, measuring performance, milestones and coaching strategies, how to assemble teams to increase productivity.	Debbie Phillips  PREVIOUSLY APPROVED	4
	Meetings of the Minds-Marketing, Advertising and Everything in Between (CR) Rule 1260-05-.03(5)(a) <b>M18</b>	Identify how to build an online presence, new techniques to improve the performance of the traditional marketing, understand the growth and importance of social media and video, and communication with consumers.	Kelly Jones  PREVIOUSLY APPROVED	3
Middle Tennessee Association of Realtors #1141	Client Communication: Do You Speak Their Language (CR) Rule 1260-05-.03(5)(a) <b>M19</b>	Identification of communication styles with clients and customers; building trust through thoughtful communication skills.	Blaine Little  PREVIOUSLY APPROVED	4
	Developing a Phenomenal Customer Service System (CR) Rule 1260-05-.03(5)(a) <b>M20</b>	Creating trust and client confidence to provide a quality customer client experience.		3

Northeast Tennessee Association of Realtors #1217  Andrea Self	Professional Standards Education (CR) Rule 1260-05-.03(5)(a) <b>M21</b>	To educate the public if or when a disagreement happens between the public and Realtors, so the ethical standards are upheld.	Dianne K. Disbrow  PREVIOUSLY APPROVED	8
	Is Real Estate a Risky Business (CR) Rule 1260-05-.03(5)(a) <b>M22</b>	To teach licensees how to avoid potential problems in their real estate business through education.		3
	It's Your Code, Use It! Tennessee (CR) Rule 1260-05-.03(5)(a) <b>M23</b>	To educate the Realtors on the Code of Ethics. So when grievances happen they are handled according to the articles and the correct process.		3
Real Estate Coaching Simplified #1681  Michelle Moore	17 Invaluable Lessons to Explode Your Income Selling New Home Construction (CR) Rule 1260-05-.03 <b>M24</b>	To help real estate agents grow their businesses by selling new home construction.	Michelle Moore  PREVIOUSLY APPROVED	10
	7 Misconceptions You Need to Know About Your Online Strategy (CR) Rule 1260-05-.03 <b>M25</b>	To provide an insight to agents that will equip them to market and effectively grow their business through online marketing strategies.		2
	Make More Money with Your Website (CR) Rule 1260-05-.03 <b>M26</b>	Help agents to grow their business and to make more money with their online strategy which helps to decrease agent turnover.		1
	5 Online Strategies to Generate Leads (CR) Rule 1260-05-.03 <b>M27</b>	To provide agents with knowledge to help them generate more leads using an online strategy, and to grow their business.		1
Renew Real Estate School <b>NEW #1775</b>  Matt Callahan	Neighborhood Real Estate Specialist (CR) Rule 1260-05-.03 <b>M28</b>	This course prepares real estate brokers and agents to work effectively with public and private initiatives that expand home ownership.	Matt Callahan  <b>NEED APPROVAL</b>	3

Signature Title Services #1751  Kevin Criswell	Title Commitments: Policies: The Derivation: & Purposes Thereof (CR) Rule 1260-05-.03(5)(a) <b>M29</b>	Educate real estate agents as to how a title policy is generated, from inception as a title search, into a commitment into a title insurance policy.	Mark Leedom Kevin Criswell  PREVIOUSLY APPROVED	2
SRP Contractors #1667  Chuck Lane	Emergency Evacuation Planning (CR) Rule 1260-05-.03 <b>M30</b>	This 4 hour course is designed to help participants develop an evacuation plan for their organization and facility that includes how to plan, design, and implement such plan.	Chuck Lane  PREVIOUSLY APPROVED	4
SWBC Mortgage Corp #1596  Tamara Tapman	VA Boot Camp (CR)  Rule 1260-05-.03 <b>M31</b>	Designed to help real estate professionals understand the basics of the VA Home Loan Guaranty Program.	Tamara Tapman  PREVIOUSLY APPROVED	2
Tennessee Realtors #1110  Steve McDonald	Resort & Second Home Property Specialist (CR) Rule 1260-05-.03 <b>M32</b>	To help real estate practitioners adapt and apply their core real estate skills, that impact the second home market and gain knowledge about buying and selling second home properties.	Greg Glosson  PREVIOUSLY APPROVED	7

**Courses Requiring Discussion**

<b>Sponsor/Address/ Contact</b>	<b>Title</b>	<b>Comment</b>	<b>Instructor(s)</b>	<b>Hours</b>