

TENNESSEE REAL ESTATE COMMISSION MINUTES
August 12 – 13, 2009

The Tennessee Real Estate Commission convened on August 12, 2009, at 9:17 a.m. in the Davy Crockett Tower at 500 James Robertson Parkway, Room 160, Nashville, TN 37243. **The following Commission Members were present Chairman Grover Collins, Vice-Chairman Isaac Northern, Commissioner Wendell Alexander, Commissioner David Flitcroft, Commissioner Charles Haynes, Commissioner Valerie Joh, Commissioner William "Bear" Stephenson and Commissioner Allen Woods. Commissioner Carol Tate was absent. Others Present: Eve Maxwell, Executive Director, Robyn Ryan, Assistant General Counsel, Kathryn Wiseman, Chief Legal Counsel and Kelly McDermott, Administrative Secretary.**

The next order of business was the adoption of the agenda (**Exhibit 1**) for the August 2009 Commission meeting. **Commissioner Haynes made a motion to adopt the agenda; seconded by Commissioner Woods; unanimous vote; motion carried.**

The next order of business was the approval of the minutes from the July 2009 meeting (**Exhibit 2**). **Commissioner Joh made a motion to approve the July 2009 meeting minutes; seconded by Commissioner Haynes; unanimous vote; motion carried.**

EDUCATION REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented courses for Commission evaluation (**Exhibit 3**). **Commissioner Haynes made a motion to not approve the course "Protecting Your Clients Equity with Staging"; seconded by Commissioner Flitcroft; unanimous vote; motion carried. Commissioner Haynes made a motion to approve all of the remaining courses; seconded by Commissioner Joh; vote: 7 yes, 0 no; Commissioner Flitcroft abstained in reference to the course "RESPA & FIRPTA"; motion carried.**

Ms. Maxwell presented a letter from the owner of HomeSafe Inspection Lisa Newman and a memorandum from Vice-President and Chief Technology Officer of HomeSafe Inspection Peng Lee (Exhibit 4). At the July meeting, the Commission voted to defer HomeSafe Inspection's course "What Realtors Need to Know about Infrared & Acoustic Technology for Home Inspection" to request more information from the sponsor. **Commissioner Alexander made a motion to not approve the course "What Realtors Need to Know about Infrared & Acoustic Technology for Home Inspection"; seconded by Commissioner Haynes; unanimous vote; motion carried.**

Ms. Maxwell presented the following instructors who have submitted their information on the new Instructor Form. She has reviewed the Instructor Forms and the accompanying back up certificates, licenses and documents. She believes that the following individuals are currently qualified to teach the courses/disciplines for which they have sought approval from the Commission and based upon her review, she recommended that they be approved, if that is what the Commission decides.

1. Richard Clemmer
2. John M. Conley
3. B. Karen Woodby
4. James P. Zemla
5. Thomas O. Neff
6. Brian Smith
7. Todd Sholar
8. Anthony Macaluso
9. David Shelton Segrest
10. Ron Corum
11. Tom Biggs
12. James Hoppa
13. Deborah Stroud
14. Marie Spodek
15. Ward Elliott
16. Annie Moffitt
17. Karel Murray
18. Oliver Frasca
19. Bobby Wood
20. Chandra Hall
21. Frank Mears
22. Gary Blume
23. Jerry Rossi
24. Karen Randolph
25. Kevin Stahle
26. Kyra Scoville
27. Marlene Rakow
28. Marty Calfee
29. Melissa Hayes
30. Monica Neubauer
31. Pamela Ermen
32. Pat Strong
33. Paula Long
34. Pug Scoville
35. Robert Morris
36. Sandra Tanksley
37. Steven Steele
38. Sue Chilton

Vice-Chairman Northern made a motion to approve the above 38 instructors; seconded by Commissioner Woods; unanimous vote; motion carried.

There was a discussion regarding progress being made in the re-review of the existing instructors. **Commissioner Woods made a motion to extend the deadline to December 31, 2009 to re-review and approve all instructors; seconded by Vice-Chairman Northern; opened to discussion; Commissioner Haynes made a motion to defer until such time that Assistant Commissioner Majchrzak**

addresses the Commission regarding the appointment of a new Education Director; seconded by Commissioner Alexander; Commissioner Woods withdrew his motion; unanimous vote to defer; motion carried.

Vice-Chairman Northern left the meeting at 9:37 a.m. and rejoined the meeting at 9:44 a.m.

Ms. Maxwell presented a request from Patrick Hitt, licensee #290522. Mr. Hitt requested that the Commission accept his successful completion of his MBA program as the completion of the remaining 71 hours of continuing education on his broker's license. **Commissioner Flitcroft made a motion to defer until TREC's legal counsel has the opportunity to review the statute in relation to Mr. Hitt's request; seconded by Commissioner Woods; unanimous vote; motion carried.**

There was a discussion regarding pre-licensing education requirements. It was determined that a committee should be established to discuss the substance of the educational requirements for pre-licensing.

There was a discussion of the written notices sent to licensees to renew. Commissioner Woods suggested TREC phase out sending renewal notices. After discussion, it was the consensus of the Commission that renewal notices would continue to be sent.

Commissioner Flitcroft had reviewed two complaints on the legal report. Ms. Robyn Ryan, Assistant General Counsel presented the complaints as Commissioner Flitcroft would be absent the second day of the meeting for the Legal Report. **Commissioner Flitcroft addressed the Commission regarding complaint # 2007055541 & 2007055542 and recommended the complaints be dismissed. Vice-Chairman Northern made a motion to accept Commissioner Flitcroft's recommendation to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.**

Chairman Collins recessed the meeting for lunch at 11:00 a.m. The meeting reconvened at 12:58 p.m.

There was a discussion regarding the seating of the Commissioners. **Commissioner Haynes made a motion that the Commissioners may sit where they want to sit; seconded by Commissioner Alexander; opened to discussion; Vice-Chairman Northern made a motion to defer until all Commissioners were present; seconded by Commissioner Woods; vote: 4 yes, 4 no; motion failed; vote on original motion: unanimous vote; motion carried.**

INFORMAL CONFERENCE

Deshan "Dee" Jones, applicant, appeared before the Commission with her potential Principal Broker Phillip "Keith" Rosenblum to seek approval for an affiliate broker license. Ms. Jones' disclosed a conviction of Drug Trafficking Conspiracy & Possession with Intent to Distribute Cocaine in 1996. **Commissioner Woods made a motion to approve; seconded by Commissioner Joh; opened to discussion; unanimous vote; motion carried.**

Gowtham Pidikiti, applicant, appeared before the Commission with his potential Principal Broker Tony Fletcher to seek approval for an affiliate broker license. Mr. Pidikiti disclosed convictions of DUI in 2002, Inhale/Possession of Glue for Unlawful Purposes in 2004, Reckless Driving in 2004, Reckless Endangerment in 2005, DUI in 2008 and Possession/Casual Exchange & Possession of Drug Paraphernalia in 2009. **Commissioner Flitcroft made a motion to deny; seconded by Commissioner Woods; unanimous vote; motion carried.**

Commissioner Flitcroft made a motion to award the Bill C. Tune Award to Charles Haynes; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.

EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented the following information to the Commission for review:

- o **Complaint Statistics Report (Exhibit 3)** – TREC has a total of **292** open complaints. Of those 292 open complaints, 41 are Errors & Omissions insurance complaints. There are 24 new complaints since the July 2009 meeting. There are 290 complaints in the legal department and 2 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2009-2010 is 41. Total Civil Penalties paid in July 2009 were \$18,730.00. Per a request made by Commissioner Alexander at the July meeting, Ms. Maxwell presented a report on complaints by calendar year from 2004 to August 2009. The report listed how many complaints were heard at the meeting and the manner in which they were disposed. She presented a report detailing the number of complaints for July 2005, July 2006, July 2007, July 2008 and July 2009 and how they were disposed.
- o **Licensing Statistics** – Ms. Maxwell presented statistics (**Exhibit 4**) to the Commission on real estate licenses approved in 2008 & 2009 and the number of licensees as of July 31, 2009. As of July 31, 2009, there were 28,851 active licensees, 3,369 inactive licensees and 10,040 retired licensees. There were 4,451 active firms and 349 retired firms. There were 274 new applications approved in July 2009. Ms. Maxwell also presented statistics on license renewal percentages (i.e. how many sent by month, the number not renewed by the 61st day and the percentage of licensees not renewed). She also presented statistics on the number of test takers from 01/2007 – 07/30/2009 and the number of test takers by site from 01/01/2009 – 07/30/2009. She also presented comparative statistics of the number of active, inactive and retired licensees in July 2007, July 2008 and July 2009.
- o **First Quarter Claims Listing Report from Rice Insurance (revised)** - The following motion was made at the July 2009 meeting: Commissioner Haynes made a motion to have Chairman Collins call Cindy Rice-Grissom, CEO of Rice Insurance, and request a suitable [claims listing] report; seconded by Vice-Chairman Northern; unanimous vote; motion carried. After the July 2009 meeting, Chairman Collins and Ms. Maxwell contacted Cindy

Rice-Grissom and a new revised report was sent to TREC. Chairman Collins presented the report to the Commission and there was some discussion regarding the substance of the claims analysis and listing report sent by Rice Insurance.

- **Subject Matter Expert Team for Timeshare Examination** - Ms. Maxwell discussed with the Commission a request from PSI, the examination vendor for TREC to have the Commission put together a Subject Matter Experts (SME) team to assist in a review of the state specific test items for the Timeshare Salesperson examination.
- **Discuss, revise and adopt the 2010 meeting schedule of the Tennessee Real Estate Commission** – There was discussion regarding where meetings not held in Nashville should be held. **After discussion regarding holding the October 2009 meeting in a different location, Vice-Chairman Northern made a motion to hold the October 2009 meeting in Kingsport as planned; seconded by Commissioner Woods; vote: 6 yes, 0 no, 2 abstained; motion carried. Commissioner Stephenson made a motion to hold the October 2010 meeting in Chattanooga; seconded by Vice-Chairman Northern; opened to discussion; no vote on motion; Commissioner Haynes made a motion to hold the September 2009 meeting in Chattanooga; no second; opened to discussion; Commissioner Haynes made a motion to hold the March 2010 meeting in Chattanooga; seconded by Commissioner Alexander; unanimous vote; motion carried. Commissioner Woods made a motion to hold the May 2010 meeting in Memphis, the October 2010 in a to be determined location in East Tennessee and the August 2010 meeting in Jackson which he then amended to September in Jackson; no second; After further discussion regarding the Spring TAR conference, Commissioner Haynes made a motion to meet in March in Murfreesboro in conjunction with the TAR conference; no second; there was discussion of holding the April meeting in Chattanooga; opened to discussion; Commissioner Haynes made a motion to hold the October 2010 meeting in Sevier County; seconded by Commissioner Flitcroft; no vote on motion; after further discussion, Chairman Collins called for a motion to adopt the schedule as proposed. Commissioner Woods made a motion to adopt the 2010 TREC meeting schedule as proposed; seconded by Commissioner Stephenson; unanimous vote; motion carried. The approved 2010 TREC meeting schedule is as follows: January 6 – 7, 2010, February 3 – 4, 2010, March 9 – 10, 2010 in Murfreesboro, April 8 – 9, 2010 in Chattanooga, May 6 – 7, 2010 in Memphis, June 2 - 3, 2010, July 7 - 8, 2010, August 4 - 5, 2010, September 2 – 3, 2010 in Jackson, October 7 - 8, 2010 in Sevier County, November 3 - 4, 2010 and December 1 - 2, 2010.**

Vice-Chairman Northern made a motion to recess the meeting; seconded by Commissioner Stephenson; unanimous vote; motion carried.

Chairman Collins recessed the meeting Wednesday, August 12 at 2:58 p.m.

TENNESSEE REAL ESTATE COMMISSION
August 13, 2009

The Tennessee Real Estate Commission reconvened on August 13, 2009 at 9:08 a.m. in the Davy Crockett Tower at 500 James Robertson Parkway, Room 160, Nashville, TN 37243. **The following Commission Members were present Chairman Grover Collins, Vice-Chairman Isaac Northern, Commissioner Wendell Alexander, Commissioner Charles Haynes, Commissioner Valerie Joh, Commissioner William "Bear" Stephenson and Commissioner Allen Woods. Commissioner Carol Tate and Commissioner David Flitcroft were absent. Others Present: Eve Maxwell, Executive Director, Robyn Ryan, Assistant General Counsel, Kathryn Wiseman, Chief Legal Counsel and Kelly McDermott, Administrative Secretary.**

LEGAL REPORT, ROBYN RYAN, GENERAL COUNSEL (EXHIBIT 8)

- 1) 2007070431 &
- 2) 2007071841 – Commissioner Woods made a motion to dismiss; seconded by Commissioner Northern; unanimous vote; motion carried.
- 3) 2007067201 – Commissioner Joh had previously reviewed the complaint. She recommended 10 hours of continuing education in contract writing. Commissioner Haynes made a motion to accept Commissioner Joh's recommendation to issue a Consent Order requiring 10 hours of continuing education in contract writing; seconded by Commissioner Woods; vote: 6 yes, 0 no; Commissioner Joh abstained; motion carried.
- 4) 2009000501 – Commissioner Alexander had previously reviewed the complaint. He recommended requiring continuing education in ethics, attendance at a two day Commission meeting and left it to the rest of the Commission to determine if a monetary fine is appropriate. Commissioner Haynes made a motion to accept Commissioner Alexander's recommendation and issue a Consent Order requiring six hours of continuing education in ethics, attendance at a two day Commission meeting and additionally a \$1,000.00 civil penalty; seconded by Commissioner Northern: vote: 5 yes, 0 no; Commissioner Alexander abstained; motion carried.
- 5) 2007055541 &
- 6) 2007055542 – These two complaints were heard the previous day. Following is the motion from the previous day: "Vice-Chairman Northern made a motion to accept Commissioner Flitcroft's recommendation to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.
- 7) 2007063051 – Commissioner Joh made a motion to accept legal counsel's recommendation to issue a Consent Order with a civil penalty of \$1,000.00; seconded by Commissioner Haynes; opened to discussion; vote: 5 yes, 0 no; Vice-Chairman Northern abstained; motion carried.

- 8) 2007049891 &
- 9) 2007049892 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.
- 10) 2007063281 – Commissioner Woods made a motion to issue a Consent Order with a civil penalty of \$1,000.00 and requiring 10 hours of continuing education in contract writing to be completed within 12 months; seconded by Commissioner Haynes; opened to discussion; Vice-Chairman Northern made a friendly amendment to require attendance at a two day Commission meeting within six months; Commissioner Woods and Commissioner Haynes accepted Vice-Chairman Northern’s friendly amendment; Commissioner Alexander made a friendly amendment to increase the number of continuing education hours from 10 hours to 16 hours to be completed within 12 months; Commissioner Woods and Commissioner Haynes accepted Commissioner Alexander’s friendly amendment; unanimous vote; motion carried.
- 11) 2007067521 &
- 12) 2007067522 &
- 13) 2007067523 – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.
- 14) 2007067321 – Commissioner Haynes made a motion to accept legal counsel’s recommendation to issue a Consent Order with a civil penalty of \$500.00; seconded by Commissioner Woods; unanimous vote; motion carried.
- 15) 2007065271 – Commissioner Alexander made a motion that the complaint be reviewed by a Commissioner; seconded by Commissioner Haynes; it was suggested Commissioner Alexander review the complaint and he agreed; unanimous vote; motion carried.
- 16) 2007064761 – Commissioner Joh made a motion to issue a Letter of Warning and issue a Consent Order requiring 10 hours of continuing education in contract writing to be completed within 12 months; seconded by Commissioner Haynes for discussion; opened to discussion; unanimous vote; motion carried.
- 17) 2007064511 – Vice-Chairman Northern made a motion to accept legal counsel’s recommendation to issue a Consent Order with a civil penalty of \$1,000.00 for Failure to Respond to Complaint and additionally to flag the file for reapplication; seconded by Commissioner Haynes; unanimous vote; motion carried.
- 18) 2008022961 &
- 19) 2008022962 &
- 20) 2008022891 &
- 21) 2008022892 – Commissioner Haynes made a motion to accept legal counsel’s recommendation to issue a Consent Order with a civil penalty of \$500.00 to Respondent 1 (2008022961), to dismiss as to 2008022962 and issue a Consent Order with a civil penalty of \$1,000.00 to Respondent 1 (2008022891); seconded by Vice-Chairman Stephenson; opened to discussion; Commissioner Haynes made a

- motion to have Vice-Chairman Northern review the complaints; seconded by Commissioner Woods; unanimous vote; motion carried.
- 22) 2007067921 – Commissioner Alexander made a motion to accept legal counsel’s recommendation to dismiss with a Letter of Warning and additionally require a second audit of the firm; seconded by Commissioner Stephenson; unanimous vote; motion carried.
 - 23) 2007067311 – Commissioner Haynes made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Stephenson; unanimous vote; motion carried.
 - 24) 2007067481 &
 - 25) 2007067482 – Commissioner Woods made a motion to issue a Consent Order to Respondent 2007067481 requiring eight (8) hours of continuing education in contract writing to be completed within 12 months and to issue a Consent Order to Respondent 2007067482 requiring four (4) hours of continuing education in contract writing to be completed within 12 months; seconded by Commissioner Alexander; unanimous vote; motion carried.
 - 26) 2007071861 – Commissioner Woods made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.
 - 27) 2007067741 – Commissioner Joh made a motion to accept legal counsel’s recommendation to Close with a Letter of Warning; seconded by Commissioner Haynes; unanimous vote; motion carried.
 - 28) 2007068461 – Commissioner Haynes made a motion to dismiss; seconded by Commissioner Alexander; unanimous vote; motion carried.
 - 29) 2007065211 – Commissioner Joh made a motion to issue a Consent Order requiring four (4) hours of continuing education in agency; seconded by Commissioner Haynes; unanimous vote; motion carried.
 - 30) 2007067091 – Commissioner Woods made a motion to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.
 - 31) 2007066161 – Commissioner Haynes made a motion to issue a Consent Order with a civil penalty of \$1,000.00; no second; opened to discussion; Commissioner Haynes made a motion to defer and have Commissioner Woods review the complaint; seconded by Commissioner Stephenson; unanimous vote; motion carried.
 - 32) 2007070211 – Commissioner Alexander made a motion to take legal counsel’s recommendation to issue a Consent Order with a civil penalty of \$1,000.00 for misrepresentation in advertising; seconded by Commissioner Haynes; unanimous vote; motion carried.
 - 33) 2007069311 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.
 - 34) 2007070541 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.

- 35) **2007070461 – Vice-Chairman Northern made a motion to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.**
- 36) **2007070201 – Commissioner Haynes made a motion to issue a Consent Order requiring respondent to attend a two day Commission meeting within 12 months; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 37) **2007067751 – Commissioner Haynes made a motion to issue a Consent Order requiring respondent to complete 12 hours of continuing education in contract writing within 12 months and flag the file for reactivation; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 38) **2007070371 – Commissioner Haynes made a motion to dismiss; seconded by Commissioner Stephenson; unanimous vote; motion carried.**

Chairman Collins left the meeting at 10:36 a.m. and Vice-Chairman Northern acted as Chairman until Chairman Collins rejoined the meeting at 10:39 a.m.

- 39) **2007068531 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.**
- 40) **2007068191 &**
- 41) **2007068192 – Commissioner Haynes made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 42) **2008012841 – Commissioner Haynes made a motion to defer and have Commissioner Joh review the complaint; seconded by Commissioner Stephenson; unanimous vote; motion carried.**
- 43) **2007064561 – Commissioner Alexander made a motion to accept legal counsel's recommendation to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.**
- 44) **2007070561 – Commissioner Alexander made a motion to accept legal counsel's recommendation to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.**
- 45) **2007070581 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Haynes; unanimous vote; motion carried.**
- 46) **2008012281 – Vice-Chairman Northern made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.**

Ms. Ryan reviewed the Legal File Summary and Consent Order Log with the Commission.

Ms. Ryan and Ms. Wiseman discussed proposed legislation with the Commission. Topics discussed were the addition of an automatic suspension for failure to maintain E&O insurance, establishing a definition of "principal broker" to be added to T.C.A. 62-13-102 and the deletion of the requirement that renewal documentation be submitted 60 days prior to the expiration date of the license (T.C.A. 62-13-307). Commissioner Haynes

requested that Ms. Maxwell compile a list of states with a single licensure. **Commissioner Stephenson made a motion to submit in the legislative package the deletion of the requirement that renewal documentation be submitted 60 days prior to the expiration date of the license (T.C.A. 62-13-307); seconded by Commissioner Haynes; unanimous vote; motion carried. Commissioner Woods made a motion to accept legal counsel's recommendation and move forward with the other discussed legislation matters; seconded by Commissioner Haynes; unanimous vote; motion carried.**

Steve Majchrzak, Assistant Commissioner of the Department of Commerce & Insurance and Janet Johnson, Information Systems Manager 2, from the Information Systems division of the Department of Commerce & Insurance addressed the Commission. Topics discussed were the staggering of renewals, statistical data regarding renewal percentages for TREC, the Division of Regulatory Boards and outside agencies that use alternative methods of sending renewal notices. Assistant Commissioner Majchrzak also discussed with the Commission the appointment of an Education Director.

COMMISSIONER REPORTS

Chairman Grover Collins, Vice Chairman Isaac Northern, Commissioner Valerie Joh, Commissioner Allen Woods, Commissioner Charles Haynes, Commissioner Wendell Alexander and Commissioner Bear Stephenson reported on matters of concern to them and to the Commission. The Commission discussed logistics and administrative issues that are of concern to members of the Commission.

Chairman Collins adjourned the meeting Thursday, August 13, 2009 at 12:32 p.m.