

TENNESSEE REAL ESTATE COMMISSION MINUTES
February 11 - 12, 2009

The Tennessee Real Estate Commission convened on February 11, 2009, at 9:10 a.m., in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner Allen Woods, Commissioner David Flitcroft, Commissioner Carol Tate, Commissioner Wendell Alexander, Commissioner Grover Collins and Commissioner Isaac Northern. Others Present: Steve Majchrzak, Assistant Commissioner of Regulatory Boards, Eve Maxwell, Executive Director, Kathryn Wiseman, Assistant General Counsel, and Kelly McDermott, Administrative Secretary.**

The first order of business was the adoption of the agenda (**Exhibit 1**) for the February 2009 Commission meeting. Commissioner Alexander suggested that at the end of the second day that the meeting be recessed instead of adjourned. **Commissioner Alexander made a motion to amend the agenda to include his suggestion; seconded by Commissioner Flitcroft; unanimous vote; amendment carried. Commissioner Alexander made a motion to adopt the amended agenda; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.**

The next order of business was the approval of the January 2009 minutes (**Exhibit 2**). **Commissioner Alexander made a motion to approve the January 2009 minutes; seconded by Commissioner Tate; unanimous vote; motion carried.**

The next order of business was to adopt Robert's Rules of Order. The Commission also signed their conflict of interest forms. **Commissioner Collins made a motion to adopt Robert's Rules of Order; seconded by Commissioner Northern; unanimous vote; motion carried.**

INFORMAL APPLICANT CONFERENCE

Donny W. Stafford, Jr., applicant, appeared with his principal broker Clint Wilson to request approval for an Affiliate Broker license. Mr. Stafford disclosed a conviction for Burglary in the Third Degree in 1985. **Commissioner Joh made a motion to approve; seconded by Commissioner Northern; opened to discussion; 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 **318** open complaints. One of the 318 open complaints is a staff generated Agreed Citation. There are 24 new complaints since the January meeting. There are 314 complaints in the legal department and 4 open complaints in the TREC office awaiting response. The total number of closed complaints for the

current Fiscal Year 2008-2009 is 171. Total Civil Penalties paid in January 2009 were \$16,453.00.

- 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 February 2, 2009. As of February 2, 2009, there were 30,379 active licensees, 3,639 inactive licensees and 9,861 retired licensees. There were 4,620 active firms and 325 retired firms. There were 176 new applications approved in January 2009. Ms. Maxwell provided information on the number of candidates for affiliate broker who tested from 2004 to January 2009. In 2004, there were 4,353 test takers. In 2005, there were 9,893 test takers. In 2006, there were 10,409 test takers. In 2007, there were 8,444 test takers. In 2008, there were 2,708 test takers. In January 2009, there were 214 test takers.

Commissioner Alexander asked Ms. Maxwell to explain the process to retire a license. Ms. Maxwell explained the process to the Commission.

Ms. Maxwell addressed the Commission regarding recent changes made to the process for reviewing education. She explained that education providers had asked for clarification on some decisions of the Commission. Ms. Maxwell asked if the Commission feels there is any subject matter in courses that would not be approved by the Commission. It was the consensus of the Commission that courses would be handled on a case by case basis. At the previous month's meeting, all courses were given an expiration date of September 30, 2009. Educators must submit new applications for review. Ms. Maxwell asked if the educators would be required to pay another renewal fee upon reapplication. There was some discussion regarding the availability of classes to the licensees. Chairman Haynes suggested that ARELLO may be able to help with course review. He also suggested that courses should be taught a minimum of once a year. Ms. Wiseman advised that if the Commission wishes to add that as a new requirement for courses for approval it would require a rule change. Commissioner Woods referenced Rule 1260-5-.10 [Withdrawal of Approval] which gives the Commission the ability to withdraw approval for courses already approved in the past. He suggested that the Commission could approve the courses and set up a process the Commission wants to use to start reviewing the courses. If the Commission so wishes they could withdraw the approval of a course if they feel the course does not meet the standards required by the Commission. Ms. Wiseman advised that all of the courses that were automatically renewed by the administrative staff have not been reviewed by the Commission. The Commission has the authority to review all of those courses. Therefore, if the Commission decided to approve all of the courses and upon review determine that a course does not meet the current standards of 1260-5-.03 or the instructor requirements then the Commission can use 1260-5-.10 to withdraw the approval of that course at whatever time the Commission decides to withdraw approval. Chairman Haynes asked for a list of courses taught in the last six months in the primary schools. Commissioner Joh would also like to know what areas they were taught. Assistant Commissioner Majchrzak asked if it is the intent of the Commission that the providers of the courses administratively approved have to make a reapplication, pay a fee and have an approval period expiring on September 30, 2009 or is the Commission

looking for additional information to make a final and formal determination. Ms. Wiseman advised that the increased fees must go through the rulemaking process and the new fees would apply to courses submitted for review after the rule becomes effective. She further advised the Commission that the providers for the courses that were administratively approved have already paid an application fee and another fee should not be charged for reapplication. However, the Commission reserves the right to review those courses that were administratively approved. Ms. Wiseman advised the Commission that they could ratify the administrative renewal of the courses and then exercise their right to review the courses to make a determination at that time whether the course meets the Commission's requirements. Ms. Wiseman explained the new proposed rule shortens the approval period from a four year period to a two year period. The rule states all currently approved courses' approval ends December 31, 2010 and then all subsequent approval periods will be two year periods. Therefore if the proposed rule passes and becomes active, then all of the courses currently approved will be terminated December 31, 2010. Commissioner Alexander asked if instructors were being approved for a four year period of time. Ms. Wiseman advised that instructors are not approved separately from the course. To implement an instructor approval process, rulemaking would be required. Chairman Haynes asked if you can approve a course and not approve the instructor. Ms. Wiseman advised that if the Commission denies an instructor they are denying the course application until they find an instructor the Commission finds acceptable. She referred them to Rule 1260-5-.02 which discusses the components of the application for approval which requires a resume outlining the education and experience of the instructor(s) of such course(s) be included with the application. **Commissioner Woods made a motion that states that the motion that carried at the January 2009 Commission meeting approving the 1,311 courses that were previously approved administratively be stricken and that motion be replaced with a motion with the following language: the Commission hereby approves the 1,311 courses that have been previously submitted and approved by administrative staff for renewal, provided however those applicant resubmit to the Commission those materials that accompany any application for approval so the Commission may review those courses pursuant to the Commission's authority under Rule 1260-5-.10.** Chairman Haynes advised Commissioner Woods that since he was in the minority in the vote in January 2009 that someone else would have to make the motion to strike the previous month's motion. Commissioner Woods restated his motion by omitting the language regarding striking the previous month's motion. **Commissioner Woods made a motion that the Commission hereby approve the 1,311 courses that have been previously submitted and approved by administrative staff for renewal, provided however those applicants resubmit to the Commission those materials that accompany any application for approval so the Commission may review those courses pursuant to the Commission's authority under Rule 1260-5-.10; seconded by Commissioner Joh; opened to discussion; Commissioner Woods amended his motion to include that providers must resubmit application by September 30, 2009; roll call vote: 7 yes, 1 no; Commissioner Alexander abstained; motion carried.** The Commission has determined that the education course approval process is in need of greater scrutiny and it takes this action pursuant to 1260-5-.10. Commissioner Northern wished to revisit the fee for instructor approval. He stated that at the previous month's meeting,

the Commission approved a rule to charge a \$200.00 fee for the approval of an instructor for each submittal for approval, but each instructor could be approved for a number of different categories. For instance, if his credentials reflect that he is qualified to teach contracts, agency and ethics then the instructor would be approved with one \$200.00 fee and the instructor can teach as long as he stays within the parameters of what he was approved for by the Commission. If he did not include a particular activity, such as inspections, he would have to reapply and pay an additional fee if he wished to teach that subject matter. Commissioner Northern believes there has been a misconception on the part of some of the providers and associations that an instructor would have to pay a \$200.00 fee for each area of instruction. The discussion of education was deferred until later in the meeting.

INFORMAL CONFERENCE

John Geissberger, applicant, appeared with his principal broker Pam Johnsen to request approval for a Timeshare Salesperson license. In the past, Mr. Geissberger had a complaint filed against him for failure to disclose a felony conviction for Conspiracy to Commit Copyright Infringement. He voluntarily surrendered his Timeshare Salesperson license. At the August 2007 Commission meeting, Mr. Geissberger appeared to request approval for an Affiliate Broker license and was denied. **Vice-Chairman Stephenson made a motion to approve Mr. Geissberger for a Timeshare Salesperson license; seconded by Commissioner Collins; unanimous vote; motion carried.**

Chairman Haynes recessed the meeting for lunch at 11:41 a.m. and the meeting reconvened at 1:24 p.m. Vice-Chairman Stephenson acted as Chairman for the remainder of the meeting. Commissioner Haynes left the meeting at 1:25 p.m.

LICENSEE REQUEST

Harry E. Concklin, III, revoked licensee, 223886, appeared before the Commission with his principal broker Tony Fletcher to request permission to retest and reapply for an affiliate broker license. Mr. Concklin's license was revoked pursuant to T.C.A. § 62-13-312(f). Mr. Concklin appeared at the January 2009 meeting to request permission to retest and reapply for an affiliate broker license. At that meeting, Ms. Wiseman, Assistant General Counsel, advised the Commission that a complaint was opened against Mr. Concklin in 2006 and at the June 2007 Commission meeting the Commission passed the following motion: Commissioner Alexander made a motion for revocation and a \$5,000.00 fine, respondent may retest/reapply and appear before the Commission for approval for an affiliate broker license. At the January 2009 meeting, it was decided that Mr. Concklin could pay his \$5,000.00 civil penalty and then he could come before the Commission to be considered for a license. Mr. Concklin paid his \$5,000.00 civil penalty and reappeared before the Commission to request permission to retest and reapply for an affiliate broker license. **Commissioner Alexander made a motion to approve Mr. Concklin's request to retest and reapply for an affiliate broker license; seconded by Commissioner Northern; unanimous vote; motion carried.**

LICENSEE REQUEST

Frank A. Bryant, licensee, appeared before the Commission to request reinstatement of his license. Mr. Bryant's license expired on 12/31/2007. His place of business burned and he was having difficulty getting his mail delivered reliably. **Commissioner Flitcroft made a motion to require Mr. Bryant to obtain Errors & Omissions insurance, pay a reinstatement penalty of \$1,550.00, pay a \$80.00 renewal fee and attend a Commission meeting within three months; seconded by Commissioner Tate; opened to discussion; Commissioner Collins made a motion to amend to reduce the reinstatement penalty to \$1,000.00 and pay a \$80.00 renewal fee; seconded by Commissioner Northern; amendment passed unanimously; motion as amended passed unanimously.**

Steve Majchrzak, Assistant Commissioner, Regulatory Boards, discussed with the Commission online renewals, the procedure for licensee address changes, the potential of sending renewal notices to the firm, home and email addresses, revenue collections, organizational structure, budgetary issues and the rulemaking process. Commissioner Alexander asked Assistant Commissioner Majchrzak to review Policy 2009-CPS-007 [Renewal Notice Policy] and advise the Commission as to which renewal notice methods would be feasible given the computer system and budget.

Commissioner Haynes reentered the meeting at 1:56 p.m.

INFORMAL CONFERENCE

Lester Weimer, applicant, appeared with his principal broker Judd "Christian" Dyle to request approval for an affiliate broker license. Mr. Weimer disclosed to the Commission a conviction of Possession with Intent to Distribute in 1983. Mr. Weimer is also licensed in Florida. **Commissioner Haynes made a motion to approve subject to the receipt of a clean license history from Florida; seconded by Commissioner Joh; unanimous vote; motion carried.**

EDUCATION REPORT, DR. KATHY RIGGS, EDUCATION DIRECTOR

Dr. Riggs presented Courses for Commission Evaluation (**Exhibit 5**). **Commissioner Collins made a motion to approve all courses; failed for lack of a second. Commissioner Collins made a motion to approve all courses through December 31, 2012; seconded by Commissioner Woods; opened to discussion; Commissioner Joh made a friendly amendment to the motion to not approve the courses "Executive Agent Training (Assessing Your Organization for High Performance)", "Change Management (Thriving in Chaos)", "Power of Persuasion: Getting to Yes", "Competing to Win" and "Trust Factor (Honestly Making More)" taught by JMS Strategies; friendly amendment seconded by Commissioner Northern; Commissioner Collins accepted Commissioner Joh's friendly amendment; unanimous vote; motion as amended carried.**

Dr. Riggs asked for clarification regarding the expiration date of the courses that were previously reviewed and approved administratively. Commissioner Northern stated that the Commission should clarify if those courses were approved until December 31, 2012 or until September 30, 2009. Ms. Wiseman restated the motion from earlier in the day.

Ms. Wiseman stated the courses that were administratively renewed remain renewed until December 31, 2012 not September 30, 2009. However, the providers need to submit new applications with no additional fee. The Commission will review all of those courses individually prior to September 30, 2009 and upon review of the course determine whether or not approval will be withdrawn or whether approval will continue. Based on the motion, all courses should show an expiration date of December 31, 2012 provided that the Commission is going to review all of the courses that were administratively renewed. Commissioner Alexander asked Ms. Wiseman what proposed rule changes would affect education. Ms. Wiseman advised that the way the rules are currently written, the Commission does not have the discretion to approve a course for less than four years. Changes in the rules that would affect the courses that are being approved is the change to 1260-5-.16 [Course Approval Periods]. The proposed rule changes the approval period from four years to two years. If the rule becomes effective later in the year, then all of the courses that are currently approved would expire December 31, 2010 and from that point forward the approval period would be a two year period. Also any new course would be approved for a two year period. Commissioner Haynes explained to Dr. Riggs that he would like a list of all courses taught at the primary schools within the last six months and in what areas of the State.

Commissioner Haynes made a motion to suspend the rules and allow J. Bucy of the Tennessee Association of Realtors to address the Commission; seconded by Commissioner Alexander; unanimous vote; motion carried.

J. Bucy, Director of Governmental Affairs of the Tennessee Association of Realtors, addressed the Commission regarding proposed legislation by the Tennessee Association of Realtors.

EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR (continued)

- **ARELLO** – Ms. Maxwell discussed with the Commission the upcoming ARELLO Mid-Year Meeting from April 26 -29, 2009 in Asheville, Tennessee.
- **May meeting in Memphis**- There was a brief discussion regarding the dates scheduled for the May 2009 meeting in Memphis. **Commissioner Haynes made a motion to move the May 2009 meeting to May 7 – 8, 2009; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**
- **TAR Spring Conference** – Ms. Maxwell presented the Commission with a letter (Exhibit 7) from TAR inviting them to participate in a panel discussion during the Tennessee Association of Realtors Spring Conference. The conference will be held Tuesday, March 17 at 10:00 a.m. at the Marriott Cool Springs in Franklin, Tennessee.
- **Sunset Audit** – Ms. Maxwell explained that preliminary discussions have taken place with the state auditor regarding the sunset audit. Commissioner Haynes asked Ms. Maxwell to prepare a report on the revenue collections and expenditures.

- **Errors & Omissions Insurance** – Ms. Maxwell presented a letter (Exhibit 8) that was sent in January to all licensees without Errors & Omissions insurance. She advised the Commission that 5,993 letters were sent out to licensees without E&O insurance. As of February 11, 2009, there were 3,163 uninsured licensees. She advised the Commission that Rice Insurance is going to send another notice out to the uninsured licensees and TREC will send a notice to the licensees' principal brokers to let them know their affiliates are not insured. She advised that Rice Insurance has 74% of TREC's licensees insured. Ms. Maxwell asked for clarification on the policy that was passed at the January 2009 meeting regarding E&O delinquency. She asked if it was the intent of the Commission to compound the penalties. **Commissioner Haynes made a motion that the penalty was not compound but simple penalties for delinquencies of 30 days, 60 days and 90 days; seconded by Commissioner Northern: unanimous vote; motion carried. Commissioner Flitcroft made a motion that the same penalty be assessed to the licensee's principal broker and not be compounded; seconded by Commissioner Haynes; unanimous vote; motion carried. Commissioner Alexander made a motion to make the previous motions a policy; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**

- **Administrative Motion Log** – Ms. Maxwell presented the Commission with a log of all administrative motions made since January 2008 and their outcomes.

Commissioner Haynes made a motion to recess for the day; seconded by Commissioner Woods; unanimous vote; motion carried.

Vice-Chairman Stephenson recessed the meeting Wednesday, February 11, 2009 at 4:33 p.m.

**TENNESSEE REAL ESTATE COMMISSION
Thursday, February 12, 2009**

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

Vice-Chairman Stephenson acted as Chairman for the duration of the meeting.

EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR (continued)

- **Administrative Motion Log (continued)** – Ms. Maxwell presented the Commission with a log of all administrative motions made since January 2008 and their outcomes. She asked for any comments or suggestions. Commissioner Tate and Northern expressed concerns about the motion penalizing licensees without Errors & Omissions insurance. They did not receive notices from Rice Insurance advising them it was time to renew their insurance. Commissioner Alexander asked Mr. Maxwell to ask Cindy Rice-Grissom to attend the Jackson meeting to discuss the sending of notices. **Commissioner Haynes made a motion to include administrative motions from January 2006 to present in the administrative motion log; seconded by Commissioner Alexander; unanimous vote; motion carried.**
- **Policies** – Ms. Wiseman read from a memo from Wayne Pugh, Deputy General Counsel, regarding the difference between policies and rules. Ms. Wiseman advised the Commission that Policy 2009-CPS-005 [Broker or Affiliate Broker as Acquisition Agent] and 2009-CPS-006 [Principal Broker of Two Firms in Same Location] are contradictory to the Statute § 62-13-309(e) which states that no more than one (1) license shall be issued to any broker or affiliate broker to be in effect at one (1) time. She advised that if the policies are to be implemented, there would have to be a change to § 62-13-309(e). Commissioner Alexander suggested legislation be introduced to remedy any conflict. Commissioner Haynes asked that staff make a report on how many principal brokers have two firms and how long they have been operating with two firms. **Commissioner Alexander made a motion that the Commission endorse changing the statute § 62-13-309(e) by presenting a bill; seconded by Commissioner Tate; opened to discussion; Commissioner Northern made a friendly amendment to the motion stating that in the interim those licensees that fall under that category can continue to do business as such; Commissioner Alexander accepted Commissioner Northern's friendly amendment; Commissioner Haynes stated that those people could not be grandfathered; Commissioner Woods stated that if the Commission brings legislation to change that statute that would only have a forward looking effect, meaning people who apply for a second license in the future. The existing double licensees cannot be grandfathered since granting those licenses was in contravention of the law. If no one brings a complaint or issue, then those will stand as they are, but the Commission cannot grandfather in those people by motion and possibly by legislative change. Commissioner Woods stated that he believes the policy still needs to be addressed. After discussion, the vote on the motion was unanimous and the motion carried. Commissioner Woods made a motion to not sign the policies 2009-CPS-005 and 2009-CPS-006 because they are in conflict with statute; seconded by Commissioner Collins; opened to discussion; Commissioner Haynes believes that this will cause confusion among the double licensees. Commissioner Haynes made a motion to defer Commissioner Woods motion and give the staff the opportunity to do**

research; seconded by Commissioner Alexander; roll call vote: 8 yes, 1 no; motion carried.

Ms. Wiseman reviewed the following policies (Exhibit 9) with the Commission:

- 2009-CPS-001 [Rule 1260-2-.09–Deposits and Earnest Money] – Commissioner Woods made a motion to adopt policy 2009-CPS-001; seconded by Commissioner Joh; unanimous vote; motion carried.
- 2009-CPS-002 [Priority Given to Egregious Complaints] – Commissioner Woods made a motion to adopt policy 2009-CPS-002; seconded by Commissioner Collins; unanimous vote; motion carried.
- 2009-CPS-003 [Certified Copy of Conviction Required] – Commissioner Collins made a motion to adopt policy 2009-CPS-003; seconded by Commissioner Woods; opened to discussion; Commissioner Northern asked if it is always possible to retain a certified copy of a conviction; Ms. Wiseman asked if it would be acceptable to change the policy to state a certified copy or a TBI Report. Commissioner Woods suggested it state any certified copy or proof reasonably required by the Commission or the staff. Ms. Wiseman suggested it state a certified copy or other documentation as required by the Commission. Commissioner Woods made a motion to approve the policy as amended; seconded by Commissioner Joh; unanimous vote; motion carried.
- 2009-CPS-004 [Commission Ethics Course] – Commissioner Tate made a motion to adopt policy 2009-CPS-004; seconded by Commissioner Haynes; unanimous vote; motion carried.
- 2009-CPS-007 [Renewal Notice Policy] – Commissioner Haynes made a motion to defer and continue to work with staff on a remedy; seconded by Commissioner Woods; opened to discussion; unanimous vote; motion carried.
- 2009-CPS-008 [Delinquent Errors and Omissions Insurance Penalty] – Commissioner Flitcroft made a motion to adopt policy 2009-CPS-008; seconded by Commissioner Haynes; unanimous vote; motion carried.

Ms. Maxwell presented to the Commission a policy log outlining all repealed and retained policies from 1989 to present.

Commissioner Collins made a motion to approve the new applications (Exhibit 6) for course review and instructor review; seconded by Commissioner Haynes; unanimous vote; motion carried.

LEGAL REPORT, KATHRYN WISEMAN, ASSISTANT GENERAL COUNSEL(Exhibit 10)

- 1) 2008000811 &
- 2) 2007071251 &
- 3) 2007070771 &

- 4) 2007086621 &
5) 2007083451 &
6) 2007067911 &
7) 2007080581 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.
- 8) 2007066531 – Vice-Chairman Stephenson had previously reviewed the complaint. Vice-Chairman Stephenson made a motion to defer until later in the meeting; seconded by Commissioner Woods; unanimous vote; motion carried.
- 9) 2006020331 – Commissioner Joh previously reviewed the complaint. Commissioner Woods made a motion issue a Consent Order with a civil penalty of \$250.00 for failure to respond in timely manner; seconded by Commissioner Collins; opened to discussion; Commissioner Collins withdrew his second; Commissioner Woods withdrew his motion; opened to discussion; Commissioner Northern made a motion to rescind action taken by the Commission at the July 2007 meeting; seconded by Commissioner Woods; opened to discussion; Commissioner Haynes made a motion to rescind the principal broker's \$1,000.00 penalty and let the \$1,000.00 penalty to the affiliate broker stand; seconded by Commissioner Alexander; opened to discussion; Commissioner Woods made a motion to amend the amendment and reduce the fine to the affiliate broker to a \$500.00 civil penalty; seconded by Commissioner Northern; roll call vote on amendment to amendment: 6 yes, 2 no, Commissioner Joh abstained; amendment to the amendment passed; roll call vote on amendment to the motion: 7 yes, 1 no, Commissioner Joh abstained; amendment passed; Commissioner Haynes made a motion to require the affiliate broker to attend a two day Commission meeting within the next six months; seconded by Commissioner Northern; roll call vote on motion as amended; 7 yes, 1 no, Commissioner Joh abstained; motion as amended carried.
- 10) 2006029971 – Commissioner Tate had previously reviewed the complaint. Commissioner Tate recommended that the Commission confirm the actions taken at the January 2008 and April 2008 meetings. Commissioner Haynes made a motion that the respondent be allowed to pay the \$1,000.00 fine over time at \$100.00 a month and attend a two day Commission meeting within six months or the respondent may surrender her license and the file will be flagged so if she ever wants to reenter the industry she would then be required to pay the penalty; seconded by Commissioner Collins; opened to discussion; roll call vote: 7 yes, Commissioner Tate and Commissioner Alexander abstained; motion carried.
- 11) 2005042991 – Commissioner Tate had previously reviewed the complaint. Commissioner Tate recommended the complaint be dismissed. Commissioner Haynes made a motion to dismiss; seconded by

Commissioner Flitcroft; vote on motion: 7 yes, Commissioner Tate abstained; motion carried.

12) 2006024231 – Commissioner Joh had previously reviewed the complaint. Commissioner Woods made a motion to dismiss; seconded by Commissioner Tate; vote: 6 yes, 0 no, Commissioner Joh abstained; motion carried.

13) 2005034851 – Commissioner Joh had previously reviewed the complaint. Commissioner Joh recommended some kind of penalty to the second agent. Commissioner Woods made a motion to close with a Letter of Warning to the second agent including a recommendation that the second agent provide the documents to the first agent; seconded by Commissioner Flitcroft; Commissioner Tate made a friendly amendment to also send a Letter of Warning to the second agent's principal broker; seconded by Commissioner Northern; Commissioner Woods accepted the friendly amendment; vote on motion as amended: 5 yes, 3 no, Commissioner Joh abstained; motion carried.

14) 2007061971 &

15) 2007061972 &

16) 2007061973 – Commissioner Joh made a motion to dismiss against all three respondents; seconded by Commissioner Woods; unanimous vote; motion carried.

17) 2008013531 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.

18) 2007070781 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.

8) – (revisited) - 2007066531 – Commissioner Northern made a motion to forward the complaint to the respondent's district attorney; seconded by Commissioner Haynes; unanimous vote; motion carried.

Ms. Wiseman presented the Commission with a legislative update (Exhibit 11) on bills she thought may be of interest to the Commission.

Ms. Wiseman reviewed the Legal File Summary and Consent Order Log with the Commission. Ms. Wiseman asked if the Commission would agree to have their copies presented in black and white and not color ink. **Commissioner Haynes made a motion to have all but one copy of the Legal File Review and Consent Order Log printed in black and white ink and not color; seconded by Commissioner Woods; unanimous vote; motion carried.**

Ms. Wiseman presented the Commission with flow charts (Exhibit 12) outlining the Rulemaking process, the Emergency Rulemaking process and the Public Necessity Rulemaking process.

COMMISSIONER REPORTS

Commissioner Joh, Commissioner Woods, Commissioner Flitcroft, Commissioner Alexander, Commissioner Northern, Commissioner Collins, Vice-Chairman Stephenson and Commissioner Haynes reported on matters of concern or interest to the Commission.

COMMENTS FROM ATTENDEES

Vice-Chairman Stephenson called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

Commissioner Alexander, who had previously requested the meeting be recessed instead of adjourned, stated he believed it was appropriate to adjourn the meeting.

Vice-Chairman Stephenson adjourned the meeting February 12, 2009 at 12:20 p.m.

The personnel sub-committee was convened by Commissioner David Flitcroft on February 12, 2009 at 12:40 p.m. The members of the sub-committee were Commissioner David Flitcroft, Commissioner Wendell Alexander and Commissioner Grover Collins. Others present: Eve Maxwell, Executive Director and Kelly McDermott, Administrative Secretary.

The purpose of the personnel sub-committee meeting was to perform a performance evaluation of Ms. Eve Maxwell, Executive Director of TREC.

The sub-committee meeting was adjourned by Commissioner Flitcroft on February 12, 2009 at 2:00 p.m.