



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
TENNESSEE REAL ESTATE COMMISSION
TENNESSEE REAL ESTATE COMMISSION MINUTES

December 2nd, 2015

The Tennessee Real Estate Commission convened on Wednesday, December 2nd, 2015 at 9:00 a.m. in Meeting Room 1A of the Davy Crockett Building, 500 James Robertson Parkway, Nashville, 37243. The following Commission Members were present: Chairman John Griess, Vice-Chairman Janet DiChiara, Commissioner Diane Hills, Commissioner Austin McMullen, Commissioner Fontaine Taylor, Commissioner Bobby Wood, and Commissioner Johnny Horne; absent from the meeting was Commissioner Marcia Franks and Commissioner Gary Blume arrived at 1pm. Others present: Education Director E. Ross White, Assistant General Counsel Mallorie Kerby, Paralegal Jennaca Smith and Administrative Secretary Kimberly Smith.

Ms. Kerby read the following statement into the record: This meeting's date, time, and location have been noticed on the TN Real Estate Commission's website, included as part of this year's meeting calendar, since August 12, 2014. Additionally, the agenda for this month's meeting has been posted on the TN Real Estate Commission's website since Wednesday November 25, 2015. Also, this meeting has been notice on the tn.gov website since Wednesday, November 25, 2015.

Commissioner DiChiara added a discussion of the June 2016 meeting to the afternoon portion of the meeting following Executive Director Report; Legal Counsel Mallorie Kerby added a 50 Mile waiver appearance by Joshua Ballard at 10:45am to the agenda; Commissioner McMullen made a motion to adopt the agenda as amended; motion seconded by Commissioner DiChiara; motion passes unanimously.

Commissioner McMullen made a motion to approve the November minutes as amended by Commissioner Taylor to have a typographical error in November 4th 2015 minutes corrected. The motion was seconded by Commissioner Hills; motion passes.

INFORMAL APPLICANT APPEARANCE

APPLICANT: DOREEN ROSE LYNCH (Affiliate Broker), passed real estate licensure exam 6/18/15.

PRINCIPAL BROKER: Trevor J. Dean (#302378), was first licensed 12/8/05 and became Principal Broker of the firm effective 6/12/15. Mr. Dean is responsible for supervising 17 Affiliate Brokers and 3 Brokers. There is no history of disciplinary action taken against Mr. Dean.

FIRM: Berkshire Hathaway Home Services Penfed Realty (#17044), Clarksville, Tennessee

Ms. Lynch revealed the following: She was convicted of theft of property and violating probation. The terms of her convictions have been met.

Commissioner McMullen made a motion to approve Doreen Lynch to continue with the licensure process; motion seconded by Commissioner Hills; motion passes unanimously.

EDUCATION REPORT

Mr. White, the Education Director, presented the educational courses D1 – D19 set forth on the December, 2015 Education Report for Commission Approval.

Commissioner McMullen made a motion to approve D1 – D19 courses; motion seconded by Commissioner DiChiara; motion passes unanimously.

Instructors Approvals

Education Director, Mr. White presented instructors some are previously approved and some need approval; they are marked in red D1 – D19 to be approved as Instructors.

Commissioner DiChiara made a motion to approve all instructors, since Education Director White recommended for approval D1 – D19; motion seconded by Commissioner Hills; motion passes unanimously.

Discussion of June 2016 Meeting

Commissioner DiChiara received an e-mail from Susan Barnett asking if the Commission would consider having their June 2016 TREC meeting in Chattanooga, TN.

After much discussion the Commission decided to add the prospect of June 2016 meeting to the January 2016 agenda for more discussion.

Discussion of TEAMS

After much discussion, Chairman Griess stated the discussion of TEAMS will be added to January 2016 agenda.

Assistant Deputy Commissioner Brian McCormack addressed the Commission. There has been an office manager hired and Linda Goodwin will be staying with TREC in order to help the new office manager with the transition before the new Executive Director starts. TREC is in the process of hiring additional office staff in the coming weeks. TREC is on track for the new Executive Director coming on board by February 1, 2016.

INFORMAL APPLICANT APPEARANCE

Request for Waiver of the 50 Mile Rule

Distance 132 Miles

AFFILIATE BROKER: JOSHUA CHARLES BALLARD (#334673) was first licensed as an Affiliate Broker on 12/1/15. His address on file with TREC is in Rossville, Georgia, 30741. There is no history of disciplinary action taken against Mr. Ballard.

PRINCIPAL BROKER: William A. "Alan" Treadway, Jr. (# 226652) was first licensed 4/29/86 and became a Real Estate Broker on 11/29/06 and Principal Broker of the firm effective 5/17/13. Mr. Treadway is responsible for supervising 8 Affiliate Brokers and 4 Brokers. There was one complaint against Mr. Treadway which was settled by a \$100 Consent Order for failure to maintain E&O Insurance in 2010.

FIRM: Marcus & Millichap Real Estate Investment Services (#260783), Brentwood, Tennessee.

Commissioner DiChiara made a motion to approve 50 Mile waiver request; motion seconded by Commissioner McMullen; roll call vote passes 4 yes, 3 no.

INFORMAL APPLICANT APPEARANCE

APPLICANT: NATALIE MICHELLE GWIN (Affiliate Broker), passed real estate licensure exam 10/1/15

PRINCIPAL BROKER: Lizbeth “Beth” Bradley (#273977), has been licensed since 1/4/2000 and became a Real Estate Broker 11/19/2003 and Principal Broker for the firm 5/30/2006. Ms. Bradley is responsible for 60 Affiliate Brokers and 8 Brokers. There is no history of disciplinary action taken against Ms. Bradley.

FIRM: Coldwell Banker Wallace & Wallace, REALTORS (#1882), Knoxville, TN

SUMMARY OF CONVICTION(S):

In August 2005, Ms. Gwin was convicted for theft of property and was sentenced to 11 months 29 days in confinement.

Commissioner DiChiara made a motion to approve Natalie Michelle Gwin to move forward with the licensure process; motion second by Commissioner Hills; motion passes unanimously.

INFORMAL APPLICANT APPEARANCE

APPLICANT: DARIUS JEROME HAMBY (Affiliate Broker), passed the real estate licensure exam on 8/26/15.

PRINCIPAL BROKER: Jason Joseph Murphy (#301551), has been licensed since 10/24/05 and became a Real Estate broker 5/21/10 and Principal Broker for the firm effective 2/25/15. Mr. Murphy is responsible for the supervision of 7 Affiliate Brokers. There is no history of disciplinary action taken against Mr. Murphy.

FIRM: Crye-Leike of Nashville, Inc. d/b/a Crye-Leike REALTORS (#258189)

SUMMARY OF CONVICTION(S):

In December 1993, Mr. Hamby pled guilty to criminal possession of controlled substance and served a 5 year term of probation.

In May 2000, Mr. Hamby was convicted of 3 felonies for selling ¼ kilogram of cocaine, possessing 5.5 ounces of cocaine, and conspiring with two or more persons to distribute over 300 grams of cocaine, and criminal impersonation (misdemeanor). Mr. Hamby received 6 years of confinement. In April 2011, Mr. Hamby was charged with a probation violation for not completing a drug course.

Commissioner Blume made a motion to approve Darius Jerome Hamby to move forward in the licensure process; motion seconded by Commissioner McMullen; motion passes unanimously.

Chairman Griess announces applicant Scott M. Boruff, per his attorney request, will be moved to the March 2016 agenda.

LEGAL REPORT, MALLORIE KERBY, ASSISTANT GENERAL COUNSEL

At the beginning of the text of each legal report (complaint report) the following text is inserted and Ms. Kerby read it into the record: “Any consent order authorized by the Commission should be signed by Respondent and returned within thirty (30) days. If said consent order is not signed and returned within the allotted time, the matter may proceed to a formal hearing.”

Attached to the end of these minutes is a copy of the legal report with all decision indicated.

MEMORANDUM

TO: TENNESSEE REAL ESTATE COMMISSION

FROM: MALLORIE KERBY, Assistant General Counsel

SUBJECT: DECEMBER LEGAL REPORT

DATE: DECEMBER 2, 2015

*Any consent order authorized by the Commission should be signed by Respondent and returned within thirty (30) days. If said consent order is not signed and returned within the allotted time, the matter may proceed to a formal hearing.

1. 2014003101

Opened: 2/27/14

First License Obtained: 10/3/12

License Expiration: 10/2/14

E&O Expiration: Uninsured

Type of License: Affiliate Broker

History: No Prior Disciplinary Action

License was placed into inactive status on or about 4/16/13.

The following was presented at the July 2014 meeting:

Complainant, a licensed broker, states that neither Respondent (affiliate broker – inactive license) nor Respondent’s company are licensed, and Complainant states that Respondent is engaged in property management. Complainant attached a copy of a letter from Respondent to Complainant’s clients (the owners of a neighboring property), which, in part, states that Respondent manages a property next door, describes the individuals in the property as “my tenants” and refers to the property as “one of my units.” Complainant states that Respondent is not the owner of the property. The office of legal

counsel conducted a search of the property address and confirmed that Respondent does not own the subject property.

Respondent submitted a response stating that Respondent oversees a few residential properties for the homeowner, and Respondent's duties are to handle repair calls, oversee yard maintenance, submit notices to tenants for non-compliance of the lease between tenants and homeowner, take photos of damages, maintenance repair, change locks, perform inspections, and clean/paint vacated property. Respondent states that Respondent sent the letter to Complainant's clients (who are neighboring homeowners) on behalf of the homeowner, and Respondent states that Respondent's words were not "political correct." Respondent states that Respondent's affiliate broker license is going to be in retirement once Respondent completes education, and Respondent's former clients were advised to find another management company or have rents sent to them, advertise their own properties, and negotiate their own leases.

Office of the legal counsel confirmed that Respondent's license is currently in inactive status, and Respondent's company has never been licensed with TREC. Office of legal counsel also performed a Google search of Respondent's company name and found webpages listing Respondent's company, with Respondent as the contact person, advertising property management services for a fee, including leasing, negotiating contracts, and collecting rent.

Recommendation: Consent Order for \$2,000 for violations of T.C.A. §§ 62-13-312(b)(14), 62-13-309(a)(1)(A), and 62-13-318(b)(4), plus attendance by Respondent at one (1) entire regularly scheduled meeting of the Commission within one hundred eighty (180) days of Respondent's execution of Consent Order.

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

Update: Respondent's license expired in October 2014 and was not renewed. Respondent is now only doing lawn service, repairs under the same name but is not doing any real estate work. Respondent states he has removed websites and a further search shows no advertisement for anything except lawn service and Respondent states that this site, Google, was first done years ago and not updated. No properties are advertised as being offer or managed by Respondent. Respondent states that Respondent now has another full time job. Respondent states Respondent has no intention of returning to real estate work.

Recommendation: Close and flag to be re-opened should Respondent attempt to secure a new license.

DECISION: Close and Flag to be re-opened should Respondent attempt to secure a new license or should a second complaint be opened against Respondent

Commissioner DiChiara made a motion to accept legal counsel recommendation; motion seconded by Commissioner Taylor; motion passes unanimously. Commissioner McMullen amended motion to close and flag to be re-opened should Respondent attempt to secure a new license or should a second complaint be opened against Respondent; motion seconded by Commissioner Taylor; motion passes unanimously.

2. 2015000211

Opened: 1/22/15

First License Obtained: 10/20/04

License Expiration: 6/14/16

E&O Expiration: 1/1/17

Type of License: Affiliate Broker

History: No Prior Disciplinary Action

The following was presented at the June 2015 meeting:

Complainant states that Respondent (affiliate broker), acting as seller in this transaction, and an agent (Respondent in case number 2015000251 below – hereinafter “agent”) marketed and sold Complainant a condominium with structural defects. Complainant alleges that Respondent failed to disclose knowledge of structural issues and lied to Complainant about it. Complainant further alleges that Respondent made a promise in writing that Respondent did not have the intent or ability to keep, breached their contract to keep Complainant from discovering the structural defect, and defrauded Complainant into signing a release. Complainant states that the seller accepted Complainant’s offer with a statement that Respondent would repair the bathroom floor at Respondent’s expense. Complainant states that a contractor stated that there appeared to be nothing wrong with the bathroom floor, but there could be decayed wood under the bathtub, and removal of the tub and floor would be required to inspect the floor joists. Complainant states that Respondent did not call the contractor to make repairs in a timely fashion, did not have repairs made pursuant to the contract, and had no intent to fulfill Respondent’s obligation under the contract. Complainant states that Respondent and agent repeatedly denied that there was anything wrong with the floor or structure and had Complainant sign a release stating that Complainant would receive \$2,500 to replace the decking and floor covering that were removed, which Complainant stated was an adequate and fair amount for the work on the floor to be performed. Complainant states that a plumber was hired to remove the bathtub and stated that there are structural issues, and the owner in the unit below asked a contractor to check on the stability of the floor brace. Complainant alleges that the structural issues cannot be repaired, stating that the floor brace was built without building permits or foundation plans and that it is not permanently attached to the building or foundation, all of which violate city codes.

Respondent states that Respondent listed the home through the agent. Respondent also states that this was a private transaction in which Respondent did not act as a real estate broker, stating that Respondent's principal broker only has casual knowledge that Respondent was selling a condo that Respondent's child had lived in. Respondent states that, when Respondent purchased the property in 2008, no structural inspections were performed. Respondent further states that the unit sat empty from May 2012 until Complainant purchased it in 2013. Respondent states that Respondent was at no time a resident of the subject property, and Respondent has never entered the crawlspace of the building where Complainant alleges there are structural defects. Respondent states that a professional engineer prepared a report in 2009, which was submitted to the HOA, and Respondent had not seen a copy of that report until the complaint was filed. Respondent states that the engineer noted that the beams, posts and supports stated there were "no specific repairs required," in any of the crawlspaces of the building. Respondent states Respondent was only aware of mold remediation work performed in all of the crawlspaces. Respondent states that Respondent allowed Complainant to expose the bathroom floor for inspection and paid Complainant \$2,500 to replace the decking and floorcovering that were removed. Respondent states that Complainant signed a release regarding same. Respondent states that Respondent has endeavored to conduct business in a fair and ethical manner. Respondent further denies all allegations that Respondent failed to disclose any structural defects, stating that Respondent had no knowledge of defects and made no guarantees regarding the structural integrity of the condo. With regard to the contract, Respondent states that the contractor could not perform the work within the timeframe of the sales contract, so the parties entered the release agreement to take payment so the work could be done under Complainant's control and to Complainant's satisfaction. Respondent states that Complainant signed the release at closing and freely acknowledges that this was an adequate and fair amount.

Complainant submitted additional information stating that Complainant agreed to take the \$2,500 partly as compensation due to the damage Respondent and the agent did to the bathroom floor and alleges that Respondent paid the money because Respondent breached contract in that Respondent agreed to repair the bathroom floor, not Complainant. Complainant also alleges that Respondent was evasive in response and any denial that Respondent had no knowledge of structural defects is not credible because Complainant discovered the defects within a week of closing. Complainant also indicated that Complainant may end up filing a civil lawsuit. Additional information was submitted that included a copy of a civil lawsuit that Complainant filed against Respondent on or about April 28, 2015 regarding the allegations of this complaint. It is likely that further information will be uncovered through the course of the litigation which will be pertinent to the Commission's determination regarding this matter.

Recommendation: Consent Order for litigation monitoring.

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

Respondent submitted updated court documents which include a motion for summary judgement by the Respondent in the civil case filed by the Complainant. The civil case was based substantially on the facts and allegations of this complaint. The motion for summary judgement was granted and the case was dismissed because the judge determined there was no merit to the allegations.

Recommendation: Dismiss.

DECISION: The Commission voted to accept the recommendation of legal counsel

Commissioner Wood made a motion to accept legal counsel; motion seconded by Commissioner McMullen; motion passes unanimously.

3. 2015017611

Opened: 7/20/15

First License Obtained: 8/26/02

License Expiration: 3/21/17

E&O Expiration: 1/1/17

Type of License: Principal Broker

History: \$500 consent order for failing to timely submit monies belonging to others

4. 2015017761

Opened: 7/21/15

First License Obtained: 8/26/02

License Expiration: 3/21/17

E&O Expiration: 1/1/17

Type of License: Principal Broker

History: \$500 consent order for failing to timely submit monies belonging to others

Complaints were filed against Respondent by two different Complainants. Complainant1 states that Respondent contacted them pursuant to their For Sale by Owner advertisement on their home. Complainant1 states that Respondent told them Respondent had an interested buyer and could have the home sold for more than the asking price in two weeks if Complainants signed a listing agreement with Respondent. Complainant 1 states that when Complainant 1 tried to send Respondent emails to the address on Respondent's business card, it would bounce back. Complainant 1 states that when Complainant 1 called Respondent, Respondent would not answer and Respondent's voicemail was full. Complainant 1 states that Respondent agreed to meet Complainant 1 at a restaurant to pick up the signed representation agreement and Respondent didn't show up after 30 minutes so Complainant 1 left. Complainant 1 states that Respondent 1 convinced Complainant 1 to sign the agreement with an amendment stating this behavior wouldn't

happen again. Complainants state that, upon entering into a listing agreement with Respondent, their prospective buyer retracted an offer (of which they never received copies), and Respondent did not obtain any more showings even though the property had a lot of interest while it was For Sale by Owner. Complainant 1 states Complainant 1 would ask for updates about whether there are any showings or what comments buyers or their agents left. Complainant 1 states Respondent would not respond and, after a few requests, Respondent would say there was no response. Complainant 1 states Respondent was asked to put flyers on the property and never did. Complainant 1 further alleges that Respondent again agreed to meet with them at a designated time and place and failed to show up. Complainant 1 states that, due to Respondent's lack of interest and professionalism in performing her obligations, Complainants requested to terminate the contract and requested a release in writing. Complainant 1 states Respondent came back to the house to pick up Respondent's lock and door sign but forgot the release form and has not provided it since.

Complainant 2 listed a property with Respondent. Complainant 2 states that Respondent failed to provide purchase offers, listing agreement and earnest money disbursement in a timely fashion. On March 31, a buyer's purchase agreement expired and they decided not to purchase the home. Complainant 2 states that Respondent did not provide the earnest money, after several requests, for six weeks. Complainant 2 states that this prevented the next buyer from getting a loan number because the previous buyer would not release the FHA loan number without getting their money back. Complainant 2 states that an offer came in to Respondent on April 2nd, 2015 and was relayed verbally to Complainant 2. Complainant 2 states that Respondent sent the documents for Complainant 2's signature on April 23 and were returned to Respondent by Complainant 2 on April 25. Complainant 2 states that, as of May 13th, Respondent still had not provided the documents to the buyer's agent, causing the buyers to have to keep extending their closing date. Complainant 2 states Respondent uses outdated 2011 forms that underwriters will not accept. Complainant 2 states that Complainant 2 requested to be released from the listing agreement because Respondent's services were substandard but Respondent refused to do so.

Office of legal counsel could not get service on Respondent and sent an investigator out to get a response. The investigator reports that he attempted to contact Respondent by phone several times and was unsuccessful because all calls were transferred to an automated answer machine. The investigator went to the firm address on record to find it vacated. The investigator pretexted as a prospective client and arranged a meeting with Respondent at a different address that Respondent said was Respondent's office. When Respondent did not arrive at the designated meeting, the investigator made several attempts to call Respondent and received a full voice mailbox after the call was answered by an automated voice mail. Respondent made several return calls, each time stating that Respondent was delayed another fifteen to twenty minutes. Two hours after the designated meeting time, the investigator made several calls to Respondent which went

unanswered. The next day, the investigator was able to make contact with Respondent via phone who the investigator states was evasive and uncooperative. The investigator reports that Respondent stated Respondent could not promise a response and that several of the documents had been destroyed. Respondent stated that Respondent would let the investigator know if Respondent could furnish the request for a statement and documents and that Respondent did not show the day before because Respondent feared for her safety. The investigator contacted Respondent 5 days later to confirm a meeting to pick up the documents. The investigator reports Respondent stated Respondent was too busy to gather the requested documents and, later that day, requested an extension. The investigator told Respondent she could submit an affidavit at any time but that the investigator was closing the investigation as unanswered. Respondent called legal counsel on November 5 stating that she would like to submit a response and that she had not been given time to do so. Respondent stated that Respondent never received the certified mail because Respondent's office flooded at the end of July and she did not have an office. Respondent told legal counsel that the investigator did not give her enough time to respond because she was dealing with the insurance company, a complainant with the local association and a civil litigation case. Legal counsel inquired as to whether Respondent had changed her firm address with TREC, Respondent stated she had not but would do so the next day. Legal counsel gave Respondent until November 18 to submit a response. On November 18, Respondent forwarded a few emails that appear to be correspondence between Respondent and a buyer's agent for the Complainant 2's property. These emails do not address any of the allegations of the complaint. Respondent did not submit a narrative response. Complainant 1 submitted text messages showing Respondent being very late or not showing up for scheduled meetings. Complainant 1 submitted emails and a letter requesting a representation agreement termination to which Respondent acknowledged and agreed to several times but never actually sent the termination form. According to TREC records, Respondent filed for a change of address on November 20.

Recommendation: \$1000 for violation of T.C.A. § 62-13-403(1)(reasonable skill and care), \$1000 for violation of T.C.A. § 62-13-404(1)(obey all lawful instructions of the client), \$500 for violation of T.C.A. § 62-13-309(a)(3)(notification of new firm address within 10 days), \$1000 for violation of T.C.A. § 62-13-404(3)(A)(ii)(receiving all offers and counter offers and forwarding promptly to client), \$1000 for violation of T.C.A. § 62-13-312(b)(5)(failing within a reasonable time to remit moneys that belong to others), (14) for a total of \$4,500.

DECISION: \$1000 for violation of T.C.A. § 62-13-403(1)(reasonable skill and care), \$1000 for violation of T.C.A. § 62-13-404(1)(obey all lawful instructions of the client), \$500 for violation of T.C.A. § 62-13-309(a)(3)(notification of new firm address within 10 days), \$1000 for violation of T.C.A. § 62-13-404(3)(A)(ii)(receiving all offers and counter offers and forwarding promptly to client), \$1000 for violation of T.C.A. § 62-13-312(b)(5)(failing within a reasonable time to remit moneys that

belong to others), (14) for a total of \$4,500, plus REVOCATION of Respondent's license.

Commissioner Motion made by Commissioner Taylor; motion seconded by Commissioner DiChiara; motion passes unanimously.

5. 2015019851

Opened: 8/18/15

First License Obtained: 5/18/12

License Expiration: 5/17/16

E & O Expiration: 1/1/17

Type of License: affiliate broker

History: No History of Disciplinary Action.

Complainant states that Complainant purchased a home they would not have purchased if they had known the HOA was finishing up a year-long process of rewriting the governing documents. Complainant states that the documents were attached to everyone's deeds one week after Complainant closed on the property. Complainant states that Respondent, through Respondent's management company, oversees and maintains all the financials, legal documents, and contracts for the subdivision and should have told Complainant about these changes. Complainant states that Respondent spoke to the title agent and Respondent's realtor before the closing and did not disclose that the HOA documents were changing. Complainant states that Respondent blamed the owner and prior listing agent for the owner for not disclosing the information. Complainant states that the day they moved in, the HOA president came over and told them they must cut down a tree in their yard by the end of the year. Complainant states that they could not get the documents showing they needed to remove the tree for three weeks of repeated requests and then only some of the documents were legible. Complainant states that Complainant's agent then requested the documents from the HOA and, instead of providing the documents, Respondent brought in an attorney. Complainant states that they are now being charged \$2800 because the tree hasn't been removed. Complainant states that email correspondence between Respondent and the title agent 5 days before closing show that Respondent didn't disclose that the HOA would be voting on the documents the next day. Complainant states that Respondent also did not disclose that the same matter was being discussed at an HOA meeting scheduled for 3 days after Complainants closing. Complainant states that Respondent should have provided all documentation and notices involving the HOA documents and meetings and, if Respondent had done so, Complainant would have never purchased the home.

Respondent states that Respondent did not act as a real estate broker or a licensee in this transaction. Respondent owns a property management company that only processes closings for homeowners associations. Respondent states that Respondent's company reports to the board of the HOA, does not make any decisions, does not hold money for

the HOA and does not oversee the HOA's legal documents or contracts. Respondent states that Respondent's only function is to provide information and receive, on behalf of the HOA, the reserve contribution and transfer fees associated with transferring the registration of the owner's contact information to the new owner. Respondent states that at the time of Complainant's closing, Respondent did not know the status of the HOA rewrite process and did not have a full copy of the new documents prior to the documents being recorded on November 24, 2014 (a week after Complainant's closing). Respondent states that the board did not authorize Respondent to provide any draft documents to potential purchasers. Respondent states that there is no way for Respondent to get documents or other information to the buyer unless someone involved in the situation reaches out to Respondent. Respondent states that Respondent does not recall Complainant's agent asking for any documents or information but recalls that the agent was upset at the fees being collected at closing. Respondent states that the title agent emailed and asking for the amount due to the HOA in connection with the sale and purchase of the property which Respondent provided. Respondent states that Respondent would not hide any information from the buyer and has no incentive to do so. Respondent states that the owner, who was selling his home without an agent, should have disclosed any changes to any governing documents to which he was a party. Respondent states that it is Respondent's understanding that the HOA board forwarded Complainant's request for information to an attorney because the TAR request form had been manipulated and the board was unsure how the manipulation would affect the terms of the board's response. Respondent states that Respondent was not in attendance at the November 13th HOA board meeting contrary to Complainant's allegations. Respondent was in attendance at the November 20th meeting but the governing documents were not discussed at that meeting. Respondent states that notification of the HOA meetings is not part of Respondent's duties.

TREC does not have jurisdiction over home owners associations. Legal counsel sees no violations of the Tennessee Real Estate Broker Act.

Recommendation: Dismiss.

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

Commissioner DiChiara made a motion to accept legal counsel; motion second by Commissioner Taylor; motion passes unanimously.

6. 2015019871

Opened: 8/18/15

First License Obtained: 12/28/87

License Expiration: 1/28/17

E & O Expiration: 1/1/17

Type of License: Principal Broker

History: Failure to Supervise – referred to litigation

Respondent states that the above affiliate broker appears to be related to activities that do not involve the sale, purchase, or leasing of real estate but rather relate to the affiliate broker's activities independent of his real estate license separate and apart from his activities pursuant to his affiliate broker licensure. Respondent states that the affiliate broker's HOA management company is in no way affiliated with Respondent's firm and, thus, Respondent is not responsible for supervising the affiliate broker as it relates to his HOA management business.

Recommendation: Dismiss.

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

Commissioner DiChiara made a motion to accept legal counsel recommendation; motion second by Commissioner Hills; motion passes unanimously.

7. 2015017771

Opened: 7/21/15

First License Obtained: 8/30/2000

License Expiration: 7/29/2017

E & O Expiration: 1/1/17

Type of License: Principal Broker

History: no prior disciplinary action

Complainant states that Complainant advised Respondent that the listings were not legal listings due to only one owner signing the listing agreement and agency disclosure form. Complainant states that there is a court order involved in the listing showing Complainant's ownership and that the listing prices are not agreed upon by the owners. Complainant states that Respondent is charging an 8% commission when the court order states 6%. Complainant states that the properties were to be listed as open listings, not exclusive right to sell per the agreed order by the court. Complainant states that Respondent admits that Respondent was misled and agreed to remove the listings and signs but has not done so. Complainant claims Respondent has been grossly negligent.

Respondent states that Respondent received a call from Complainant on May 16, 2015 stating that Complainant is one of the owners of the two properties Respondent has listed. Complainant told Respondent that Respondent didn't have a problem with the listing price for one property but thought the other was too low. Respondent states that Respondent called the owner of record who told Respondent that Complainant was not on the title or the loan on either property and that there was an agreed order regarding the properties. Respondent told the owner of record what Complainant had said regarding the list price an commission and the owner of record stated she wanted the list price to stay

and wanted the commission to be 8% because the properties are commercial (even though now one of them is classified as residential). The owner of record told Respondent that the order gave Complainant 45 days from February 10, 2015 to try and sell the properties but that this time period was up and she had the right to list the properties. The owner of record also told Respondent that Complainant was not allowed to go onto the properties to show them unless Complainant goes through her attorney, per the agreed order. Respondent states that Respondent has not heard anything about the listings being open instead of exclusive and cannot find anything about this in the agreed order and did not get a call back from the owner of record's attorney regarding this matter. Respondent states that Complainant's attorney called Respondent stating that Complainant wanted to be involved in setting the listing price but the owner of record (Respondent's client) stated that she has the right in the agreed order to list the properties and the listing prices she wants are above the minimum amounts in the agreed order. Respondent states that Respondent has been unable to bring any solution between the two parties.

Respondent provided the agreed order and supporting documents. It is legal counsel's that any contrary interpretation of the court order would need to be determined by the courts. Legal counsel sees no indication that Respondent is in violation of the Tennessee Broker Act.

Recommendation: Dismiss.

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

Commissioner McMullen made a motion to accept legal counsel recommendation; motion second by Commissioner Wood; motion passes unanimously.

8. 2015020621

Opened: 10/15/15

First License Obtained: 1/25/13

License Expiration: 1/24/16

E & O Expiration: N/A

Type of License: Time Share Registration

History: No History of Disciplinary Action.

9. 2015020631

Opened: 10/15/15

First License Obtained: 6/28/05

License Expiration: 5/10/17

E & O Expiration: N/A

Type of License: Time Share Salesperson

History: No History of Disciplinary Action.

A complaint was filed by a consumer against Respondent 1 (Time Share Registrant) and Respondent 2 (Time-Share Salesperson). Respondent 2 is affiliated with a Real Estate Firm that has a similar name as Respondent 1 but is not located at the same address. Complainant was a guest at a resort and states that Respondent 2 contacted Complainant to get permission to bring a gift bag to their room. Complainant alleges that Respondent 2 asked if Complainant was interested in getting out of a timeshare with a different company (Time Share Company 1), stating that Complainant could exchange title for points with the new company that owned the resort they were staying at (Time Share Company 2) and therefore reduce their current payment amount for ownership of a time share. Complainant states that Complainant purchased the new timeshares from Time Share Company 2, which required two additional credit cards and was put in contact with a title exchange company to transfer title. Complainant states that the title exchange company could not transfer title because money was still owed to Time Share Company 1, but Complainant still had to pay the \$1,190.00 processing fee to the title exchange company and has heard no word about getting it back.

Respondent 2 sent a response stating that Respondent 2 met with Complainants at the resort to deliver a welcome bag, and Complainant told Respondent 2 that Complainant owned a timeshare with Time Share Company 1 and would like to get rid of it. Respondent 2 advised Complainant of a title company that could relieve Complainant of the timeshare so long as it was paid in full and the maintenance fees were current. Respondent 2 states that Respondent 2 explained that the deed could be removed from their names once the balance was paid—stating that Complainant and other family members were very excited at the prospect of getting rid of their timeshare with Time Share Company 1. Respondent 2 states that Complainants gave assurance that the balance could be paid of quickly. Respondent 2 states that Respondent 2 provided the title exchange company contract and had them initial in ten (10) places, one of which states deeds cannot be taken by the title exchange company if there is an existing balance. Respondent states that Respondent explained that as soon as it was paid in full, the title exchange process would begin. Respondent 2 denies giving the impression that the balance owed to Time Share Company 1 would be forgiven. Respondent 2 states that Respondent 2 assisted Complainant with applying for and receiving approval for two (2) credit cards to purchase a small deed with Time Share Company 2 with a very low maintenance fee. Respondent denies telling Complainant or leading Complainant to believe that the Time Share Company 1 deed could be taken by the title exchange company before it was paid off.

Respondent 1 sent a response, by and through its Principal Broker (who is not the same as Respondent 2's Principal Broker), stating that Complainant reached out to Respondent 1 claiming Complainant was not treated fairly during their purchase. Respondent 1 states that after questioning staff and the owner of the title exchange company, the Principal Broker for Respondent 1 determined there was no basis to the complaint. Respondent 1

states that the title exchange company told Complainants they could still transfer their timeshare even though it wasn't paid off but there would be an additional fee. Respondent 1 further states that Complainants' son, who is involved in the transaction, has gone back and forth about whether or not he wants a refund which is why a refund has not been issued.

Legal counsel reviewed the contract documents, which states, "Purchaser(s) acknowledge that no promises, statements, representation or warranties, except as set out in writing in the documents covering this purchase have been made." Also, there is an agreement between Complainants and the title exchange company in which Complainant initialed next to the paragraph that states, "We acknowledge that the property cannot be transferred unless all fees and assessments are current and property is free of any mortgage." There was nothing submitted to substantiate that Respondent 2 told complainants anything contrary to what is in the written contract. However, the timeshare exchange company with which Complainants have an agreement appears to be in the business of finding buyers for other peoples' timeshares and advertising them for sale. This entity is not licensed as a timeshare resale broker.

Recommendation: Dismiss against Respondent 1 and 2. Open a complaint for unlicensed activity against the timeshare transfer company.

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

Commissioner Hills made a motion to accept legal counsel recommendation to dismiss against Respondent 1 and 2. Open a complaint for unlicensed activity against the timeshare transfer company; motion second by Commissioner McMullen; motion passes unanimously.

10. 2015020651

Opened: 10/15/15

First License Obtained: 5/2/91

License Expiration: 5/7/16

E & O Expiration: 1/1/17

Type of License: Principal Broker

History: No History of Disciplinary Action.

TREC opened a complaint against the Principal Broker for Respondent 2 ("Timeshare Sales Agent") in case number 2015020631 above for a potential failure to supervise violation. Respondent is Principal Broker for the Real Estate Firm and Time Share Company 2 mentioned above. Respondent is not Principal Broker for Respondent 1 in case number 2015020621 above. Respondent states that Respondent supervises the Timeshare Sales Agent on a daily basis and assigned the Timeshare Sales Agent to meet with the Complainant. The Timeshare Sales Agent completed the new purchase

paperwork in Respondent's office and told Respondent that Complainants owned another timeshare and wanted to get rid of it because they could no longer afford it. Respondent states that the Timeshare Sales Agent told Complainant of a company that would help them get rid of the unwanted timeshare if it was paid in full. Respondent states the Timeshare Sales Agent said Complainants and family said they would think about it. Respondent did not hear from Complainant until 8 ½ months after the purchase when

Complainant wrote a letter to the corporate office. Respondent denies any wrongdoing.

Recommendation: Dismiss.

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

Commissioner McMullen made a motion to accept legal counsel recommendation; motion second by Commissioner Wood; motion passes unanimously.

11. 2015021082

Opened: 10/15/15

First License Obtained: 4/20/99

License Expiration: 12/31/15

E & O Expiration: N/A

Type of License: Time Share Registration

History: 2015021101 Under Review

A complaint was filed by a consumer requesting cancellation of a contract that was executed May 30, 2015 to purchase a time share from Respondent. The request for cancellation was dated May 31, 2015.

Respondent stated that Complainant exercised Complainant's right to cancel the Purchase Contract in accordance with the mandatory rescission procedures included within the contract, and Respondent has processed the cancellation and refund of the account. Respondent included a copy of the cancellation letter sent to Complainant which is dated June 25, 2015.

Recommendation: Dismiss.

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

Commissioner DiChiara made a motion to accept legal counsel recommendation; motion second by Commissioner Taylor; motion passes unanimously.

12. 2015021091

Opened: 10/15/15

First License Obtained:
License Expiration:
E & O Expiration:
Type of License: Time Share Registration (Exempt)
History: No history of disciplinary action.

Complainants state that they entered into a contract on May 28, 2015 with Respondent in good faith, but there have been numerous errors and misrepresentations. Complainants state that they sent notices of cancellation numerous times to Respondent within the ten (10) day period. Complainants state that they expect to be refunded \$2,545.00 and expect to be restored to their original contract with their original time share company to include the full point value of over 324,000. Complainants also expect the deed from their original time share purchase to be forwarded as promised by the other time share company. Complainants state that they tried to take a bad situation and turn it into something usable with Respondent, but it appears that Respondent has the same problems as the original time share company. Complainants included three (3) letters dated June 2, 2015, which were sent to Respondent at various addresses requesting cancellation.

Respondent sent a response by and through its General Counsel stating that their records reflect that Complainants purchased a timeshare interest in Respondent from their non-affiliated, independent sales agent (Complainants' original time share company mentioned above). The sales agent was responsible for processing the cancellation request and issuing a refund. Respondent states that, unfortunately, the sales agent did not process the refund in a timely manner, which led to the complaint being filed. Respondent states that the oversight has been corrected, and the full amount of \$2,545.00 has been refunded to Complainants. Respondent further states that it has been confirmed with the sales agent that their original timeshare ownership has been restored and the deed has been recorded on Complainants' behalf.

Recommendation: \$1000 for violation of T.C.A. § 66-32-114(a)(refunds must be made within 30 days of the notice of cancellation), T.C.A. § 66-32-121(f)(2)(e).

DECISION: The Commission voted to accept the recommendation of legal counsel. The Commission voted on a second motion to open a complaint against Timeshare Salesperson.

Commissioner Hills made a motion to accept legal counsel recommendation; motion second by Commissioner DiChiara; motion passes unanimously. Commissioner Blume made a second motion that TREC open complaint against Timeshare Salesperson; motion second by Commissioner Taylor; motion passes unanimously.

13. 2015021101

Opened: 10/16/15

First License Obtained: 4/20/99
License Expiration: 12/31/15
E & O Expiration: N/A
Type of License: Time Share Registration
History: 2015021082 Under Review

Complainant states that during the sales process, Complainant was lied to, highly pressured, and deceived regarding how the program works. Complainant alleges that Respondent committed fraud. Complainant states that Complainant filed a formal complaint with Respondent on March 2, 2015 and has not received a response. Complainant included a letter to Respondent that states Complainant purchased a time share on January 9, 2008 and realizes now that Complainant was lied to and defrauded. Complainant requested a refund of money. Complainant also included a letter dated February 6, 2015 expressing dissatisfaction in treatment by Respondent and Complainant's investment. Complainant states that Respondent stated that the value would increase immediately, the price would go up if not purchased immediately, the purchase was a tax incentive, the unit would be easily rented out, Respondent would buy back the timeshare at any time, refinancing opportunities are available, and that the presentation would take 40 minutes but in fact took 4 hours.

Respondent sent a response by and through an attorney denying that any such representations were made and states that these allegations are refuted by the fully-executed contract documents. Respondent states that Complainant signed an Acknowledgement of Representations acknowledging Complainant's understanding that no representations have been made as to investment or resale potential and that the purchase is primarily for personal use and not investment purposes. Respondent further states that it offers a first day incentive to lock in a given rate only on the day of the offer. Further, Respondent states that the interest paid on timeshare mortgages is tax deductible, and Respondent mails the appropriate tax forms to its owners each year. However, Respondent denies providing tax advice and it's each owner's responsibility to consult a CPA. Further, Respondent states Complainant was only required to attend the 90-minute sales presentation and was under no obligation to remain at the resort past this timeframe. Respondent also states that their timeshare owners do have the ability to seek alternative financing. Finally, Respondent states that Complainant signed and initialed the Acknowledgment of Representations and that although Complainant has the right to sell or transfer any rights of ownership, Respondent has not made any representations as to investment or resale potential. Respondent maintains that the purchase contract is valid and legally-binding and Complainant did not seek to cancel the Purchase Contract within the mandatory rescission period.

Recommendation: Dismiss.

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

Commissioner Wood made a motion to accept legal counsel recommendation; motion second by Commissioner McMullen; motion passes unanimously.

14. 2015021121

Opened: 10/16/15

First License Obtained: 8/27/08

License Expiration: 8/26/11

E & O Expiration: N/A

Type of License: Time Share Registration

History: No History of Disciplinary Action.

Complainants filed a complaint stating they purchased a timeshare from Respondents and later discovered they were lied to and misled throughout the sales process. Complainants requested cancellation of the contract and demanded a full refund. Complainants state that they felt forced to make decisions not in their best interest, and they were rushed to make financial decisions without Respondent fully researching their financial capability. Complainants believe that if a full financial application were filled out, Respondent would have discovered that Complainants could not handle the fifteen thousand dollar (\$15,000.00) purchase via PayPal.

Respondent states that they regret to hear of Complainants concerns and apologize for any inconvenience. Respondent believes, due to the letterhead and format of the complaint, that Complainants have contracted with a third party entity that has provided Complainants with advice regarding the cancellation of their contract. Respondent believes that these types of third party entities are operating for-profit organizations that may be engaged in the unauthorized practice of law. Respondent reviews all complaints on their own merit but have found that complaints submitted via third party entities are difficult to substantiate and often lead the consumer into saying something that is not accurate. Respondent states that Complainants have been owners since 2013 with an additional purchase in 2014. On February 8, 2015, Complainants agreed to trade the first contract to utilize equity to purchase the second contract for an undivided interest in a resort by allocation of points. Complainants filled out a survey that indicated the reason for purchase was due to nice accommodations and location. Complainants' additional comments stated, "quality people." Respondent states that Complainants signed and received the Acknowledgement of Application for and Use of a PayPal Credit Account, and signed the sales charge receipt in the amount of \$14,991.37. Complainants further signed and received an Acknowledgement and Disclosure Statement which included Program Rules. Respondent's records further indicate that on March 13, 2015, Complainants converted points for an account credit toward their club assessment. Respondent further states that Complainants signed and received the Buyer's Acknowledgement and Ownership Review, which are documents to assist the purchaser in avoiding a misunderstanding and aiding them in understanding the product they are

purchasing. Respondent states that purchasers are given rescission rights that provide them the opportunity to carefully review and reconsider all provisions. Respondent states that they have attempted to contact Complainants via telephone and email without success, and based on Respondent's investigation of the complaint, the executed contract documents, and the information in their record, Respondent does not find information to substantiate the allegations set forth in the complaint. Respondent has respectfully denied their cancellation request.

Office of legal counsel verified Respondent's statements with the transaction documents, which include a truth in lending statement and good faith estimate.

Recommendation: Dismiss.

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

Commissioner Hills made a motion to accept legal counsel recommendation; motion second by Commissioner DiChiara; Commissioner Horne abstained; motion passes.

15. 20150209481

Opened: 10/20/15

First License Obtained: 12/19/97

License Expiration: 2/26/17

E & O Expiration: 1/1/17

Type of License: Principal Broker

History: No History of Disciplinary Action.

A complaint was filed by a consumer who has a property for sale by owner. Complainant states that a representation agreement with Respondent's firm was mutually terminated due to unethical, unprofessional, and rude service. Further, Complainant states that Respondent has told Complainant's neighbors that if they show Complainant's property to potential buyers, the neighbors can be sued because they are not licensed real estate agents. Complainant believes Respondent and an affiliate are trying to intimidate, frighten and terrorize Complainant's friends and neighbors. Complainant states that the neighbor merely unlocks the gate to the property and does not receive any monetary compensation and does this to help Complainant because Complainant is out of the state. Complainant further states that Respondent and an affiliate have told potential buyers that there is no well on the property, and that they should look elsewhere. Complainant further states that Complainant had to call the County Sheriff in order to retrieve the keys to the property from Respondent and Respondent still has not returned Complainant's legal documents. Respondent did not submit a response to the complaint.

Office of legal counsel contacted Complainant to obtain documentation to substantiate the allegations. Complainant states that the neighbors do not wish to issue statements

regarding the threats made by Respondent. Complainant states that Complainant was unhappy with the way Respondent was handling the sale of the cabin, so Complainant fired Respondent over the phone. Complainant states that Respondent then refused to respond to calls, emails and refused the mail that was sent to Respondent. Complainant submitted the letter sent to Respondent on September 3, requesting that the representation be terminated because Complainant was unhappy with Respondent's services and that Respondent is showing the property to families too large for the cabin and with inadequate financing just to appease Complainant. Complainant's letter states that Respondent said the property is overpriced even though Respondent's agent set the price and that Respondent told prospective buyers that there is no permanent potable water source which is not true.

Recommendation: Consent Order in the amount of \$500 for violation of T.C.A. § 62-13-313(a)(2) (failure to respond), \$500 for violation of T.C.A. § 62-13-403(1)(reasonable skill and care), T.C.A. § 62-13-312(b)(14).

DECISION: Consent Order in the amount of \$1,000 for violation of T.C.A. § 62-13-313(a)(2) (failure to respond), \$1,000 for violation of T.C.A. § 62-13-403(1)(reasonable skill and care), T.C.A. § 62-13-312(b)(14).

Commissioner Blume made the motion; motion second by Commissioner Hills; motion passes unanimously.

16. 20150209521

Opened: 10/20/15

First License Obtained: 12/28/05

License Expiration: 12/27/15

E & O Expiration: 1/1/17

Type of License: Affiliate Broker

History: No History of Disciplinary Action.

Complainant entered into a lease agreement with Respondent's firm on February 4, 2015 and made a payment for first month's rent (\$1,395.00), deposit (\$1,395.00) and a pet deposit (\$350.00). Complainant further states that a copy of the executed lease was not provided on the day of execution, although requested. Complainant states that a walk through was made and twenty-five repairs were noted. Complainant states that Respondent assured the repair list would be promptly resolved but later discovered that it was not forwarded to the landlord. Complainant states that the repair list was never completed, sewage and mud began to back up in the bathroom shower due to tree roots growing into the pipes, and the front yard had to be dug up. Complainant further states that two major roof leaks were also discovered and black mold began to form, the oven overheated, the microwave did not heat, the bathroom tubs were not in working order, and the Air Conditioning unit went out for eleven (11) days. Complainant states that

numerous text messages were exchanged between February-April regarding the untimely completion of repairs. Complainant further states that the April rent check was misplaced by an office employee and alleges that Respondent's disorganization was the reason for lack of repairs. Complainant sent a letter of intent to vacate the property by June 11, 2015, and received a call from Respondent on May 20, 2015 requesting that the landlord asked Respondent to try to intervene and help resolve the situation. Complainant states that Respondent bullied and threatened Complainant during this conversation, which had a profound effect on Complainant's existing heart conditions. Complainant alleges that Respondent made willful misrepresentations and false statements; pursued a flagrant course of misrepresentation and made false promises; failed to furnish a copy of the lease agreement and repair list at time of execution; participated in the unauthorized practice of law, financial advising and debt collection; acted in poor character which constituted improper and dishonest dealing; and falsely advertised the home.

Respondent submitted a response by and through an attorney. Respondent states that Complainants entered into a Leasing Agreement with the landlord, and Respondent was the designated listing agent hired only to help facilitate having the property rented. Respondent states that Respondent was not a party to the contract, nor was Respondent or Respondent's firm listed as the property management company. Respondent states that Complainants failed to pay rent to the landlord for April and May 2015, and Respondent believes that Complainants moved out in June. Respondent states that the landlord has filed suit in General Sessions against Complainants for failure to pay rent. Respondent further states that all correspondence regarding repairs was made directly between Complainants and landlord. Respondent denies all allegations made in the complaint. Respondent was not a party to the contract and states that any promises made by the landlord to fix any alleged issues with the property does not constitute any misrepresentation by Respondent. Respondent was simply the listing agent that facilitated the rental agreement for the property and did not act as property manager.

Office of legal counsel reviewed the documentation provided. The Lease Agreement was created on TAR form F58, and Item 22 Property Management Company states, "N/A." The Walk Through Document was also included, and it appears it was executed by Complainants and Respondent on February 4, 2015. It further appears from the documents provided by Complainants that all correspondence regarding repairs and the notice to vacate were made between Complainants and the landlord. The Respondent states that Respondent did not provide a copy of the lease at the walk through but provided it upon Complainants' request. It appears from email documentation that this was provided to Complainants on February 20, 2015.

Recommendation: \$100 for violation of T.C.A. § 62-13-312(b)(8)(failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories of the contract at the time of execution.

DECISION: \$250 for violation of T.C.A. § 62-13-312(b)(8)(failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories of the contract at the time of execution, plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order.

Commissioner Taylor made a motion of \$250 for violation of T.C.A. § 62-13-312(b)(8)(failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories of the contract at the time of execution, plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order; motion second by Commissioner DiChiara; motion passes.

Commissioner Wood made a motion substitute \$100 for violation of T.C.A. § 62-13-312(b)(8)(failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories of the contract at the time of execution, plus attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the Consent Order; motion second Commissioner Horne; roll call vote Commissioner Blume voted No, Commissioner DiChiara voted No, Chairman Griess voted Yes, Commissioner Hills voted No, Commissioner Horne voted Yes, Commissioner McMullen voted Yes, Commissioner Taylor voted No, Commissioner Wood voted Yes, motion failed.

17. 2015021261

Opened: 11/12/15

First License Obtained: 2/11/09

License Expiration: 5/6/17

E & O Expiration: 1/1/17

Type of License: Principal Broker

History: 2015021826 Open Complaint

TREC opened a complaint against Respondent (Principal Broker) for failure to supervise Respondent in case number 20150209521 above (hereinafter "Affiliate Broker"). Respondent submitted a response by and through an attorney. Respondent has no independent knowledge of the incident except for the information provided from the Affiliate Broker. The majority of the response provided mirrors the response provided for the Affiliate Broker. While the principal broker is responsible for supervising the affiliate broker's it is legal counsel's opinion that it would be difficult for the principal broker to ensure that a copy is given to the parties at execution without the principal broker being present at the execution.

Recommendation: Dismiss.

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

Commissioner Hills made a motion to accept legal counsel recommendation; motion second by Commissioner Taylor; motion passes unanimously.

EXECUTIVE DIRECTOR'S REPORT REPORTED BY MALLORIE KERBY

Ms. Kerby presented the following information to the Commission for review via the I-Pads:

CONSENT ORDER TRACKING

Ms. Kerby asked if the Commissioners had any questions about the consent order log. **The Commissioners did not have any questions.**

Exams Statistics

Statistics were provided showing the number of exams taken per month from 2006-2015. Statistics also included a breakdown of exams taken in the month of October 2015 by type as well as a comparison to the number of exams taken in October of 2014.

Monies Collected 11/1/15 – 11/30/15

Reinstatement Fees totaling \$12,190.00.

Fingerprints Updates

The fingerprint report included a breakdown of the number of reports generated by fingerprints per month in 2015 further divided by those with indications and those without. Applicant fingerprinting is pursuant to TCA 62-13-303(1).

BUDGET

Ms. Kerby had previously sent a copy of the budget to the Commissioners for their review. The Commissioners did not have any questions.

Chairman Griess adjourned the meeting on Wednesday,

December 2nd 2015 at 2:15 p.m.



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
TENNESSEE REAL ESTATE COMMISSION
TENNESSEE REAL ESTATE COMMISSION MINUTES

December 3rd 2015

The Tennessee Real Estate Commission convened on Thursday, December 3rd, 2015 at 9:00 a.m. in Meeting Room 1A of the Davy Crockett Building, 500 James Robertson Parkway, Nashville, 37243. The following Commission Members were present: Chairman John Griess, Vice-Chairman Janet DiChiara, Commissioner Diane Hills, Commissioner Fontaine Taylor, Commissioner Johnny Horne; and Commissioner Franks. Absent from the meeting was Commissioner Austin McMullen. Others present: Director of Licensing Kimberly Whaley, Assistant General Counsel Mallorie Kerby, Paralegal Jennaca Smith and Administrative Secretary Kimberly Smith.

Formal Hearing

9:00A.M. CST CALL TO ORDER

TREC v. David M. Dixon 12.18-132119A

A formal hearing was held before the Commission with an Administrative Law Judge presiding. After consideration of the testimony and the evidence presented, the Commission voted to revoke license and assess the cost of the hearing to the respondent.

Chairman Griess adjourned the meeting on Thursday,

December 3rd, 2015 at 3:26 pm