

STATE OF TENNESSEE
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<https://www.tn.gov/commerce/regboards/trec.html>

MINUTES

The Tennessee Real Estate Commission met on November 13, 2024, at 8:30 a.m. CST in room 1-B of the Davy Crockett Tower at 500 James Robertson Parkway, Nashville, TN 37243. In addition, the meeting was streamed electronically via the Microsoft Teams meeting platform. Executive Director Denise Baker read the public disclaimer and called the roll. The following Commission members were present: Chairman Geoff Diaz, Vice Chairman DJ Farris, Commissioner Joan Smith, Commissioner Steve Guinn, Commissioner Jon Moffett, Commissioner Torbett, Commissioner Gaughan and Commissioner Kathy Tucker. Commissioner Begley was absent. Quorum Confirmed. Others present are Associate General Counsel Anna D. Matlock, Associate General Counsel Kimberly Cooper, Associate General Counsel Aerial Carter, Paralegal Carol McGlynn, and TREC staff member Denny Lammers.

The board's November meeting agenda was submitted for approval.

The motion to approve the November 13, 2024, agenda was made by Commissioner Smith and seconded by Commissioner Farris. The motion passed Unanimously.

Chair Diaz requested that Commission Discussion be moved to just prior to Informal Appearances and specifically wanted to discuss the *Fresh Start Act*.

Executive Director Baker also requested to add a discussion related to gift cards to the Commission Discussion period.

A motion to approve the amended agenda was made by Commissioner Smith and seconded by Commissioner Farris. The motion was approved unanimously.

The October 17, 2024, Commission meeting minutes were submitted for approval.

The motion to approve the October 17, 2024, minutes was made by Commissioner Tucker and seconded by Commissioner Torbett. The motion passed 8-0, Commissioner Begley was absent.

INFORMAL APPEARANCES

Kerry Elmore appeared before the Commission with his Principal Broker, Phyllis Sissum, to receive approval for his Timeshare Salesperson license.

Commissioner Gaughan motioned to approve Kerry Elmore and was seconded by Commissioner Farris. The motion passed unanimously.

Kiera Medlock appeared before the Commission with her Principal Broker, Cheryl Harris to receive approval for her Affiliate Broker license.

The motion to approve Kiera Medlock was made by Commissioner Guinn and seconded by Commissioner Torbett. The motion passed unanimously.

Michaela Bruno appeared before the Commission with her Principal Broker, Christopher Clabough to receive approval for her Timeshare Salesperson license.

Commissioner Tucker motioned to approve Michaela Bruno and seconded by Commissioner Moffett. The motion passed unanimously.

Crystal Kemp appeared before the Commission with her Principal Broker, Dwight Price to receive approval for her Affiliate Broker license.

The motion to approve Crystal Kemp was made by Commissioner Torbett and seconded by Commissioner Gaughan. The motion passed unanimously.

Joshua Young appeared before the Commission with her Principal Broker, Ashley Mullins to receive approval for his Affiliate Broker license.

The motion to approve Joshua Young was made by Commissioner Torbett and seconded by Commissioner Tucker. The motion passed unanimously.

David Dixon appeared before the Commission with her Principal Broker, Charles Johnson to receive approval for his Broker license.

The motion to approve David Dixon for an Affiliate Broker license only was made by Commissioner Gaughan and seconded by Commissioner Tucker. The motion passed 6-2 with Commissioner Smith and Commissioner Moffett voting no.

WAIVER REQUESTS - NONE

EDUCATION REPORT

Executive Director Denise Baker presented the Education Report to the Commission.

The motion to approve courses 1-45 was made by Commissioner Smith and seconded by Commissioner Torbett. The motion passed unanimously.

Executive Director Baker presented the instructor biographies for approval. The motion to approve the 17 instructor biographies was made by Commissioner Guinn and seconded by Commissioner Tucker. The motion passed unanimously.

Executive Director opened the floor for nominations for the Bill Tune Award for 2024. Commissioner Smith nominated E Ross White. Seconded by Commissioner Farris. The motion carried unanimously.

EXECUTIVE DIRECTOR REPORT

Executive Director Baker announced that in reference to the Director of Education vacancy we have received 42 applications for the position. We have recommended a candidate to TDCI leadership and once approved by TDCI the candidate will then need to be approved by DOHR. We hope the candidate selected will be able to begin in December and their first report to the Commission will be in February of 2025. It was a very impressive slate of candidates, and we feel that we have selected the correct fit for the position.

Executive Director Baker announced that Aerial Carter, Kim Cooper and Director Baker attended the ARELLO Regulatory Investigation Seminar in October. They learned about investigation techniques, testifying techniques, report writing, and they went through several case studies from around the country.

Executive Director Baker announced that TREC released its fall newsletter on November 4th. The newsletter had an open rate of 60.8% which exceeds industry standards. It focused on TREC's errors and omissions ("E&O") insurance providers and the renewal period which expires January 1, 2025. We also had a legal update in reference to the rule making hearing today and the rule making hearing in December. Lastly, the newsletter had references to course and instructor renewals for the 2025/2026 period.

Executive Director Baker announced that we will have a comprehensive report on the TREC HS Program either in December or February.

Commissioner Guinn asked if they could obtain a detailed open complaint report. Executive Director Baker said that was possible but most likely not until the February 2025 meeting.

RULEMAKING HEARING

Associate General Counsel Anna Matlock called the rulemaking hearing to order. The purpose of this rule making hearing is to solicit comments on rule amendments to the rules and regulations of the Tennessee Real Estate Commission. The proposed rules amend the requirements for reinstatement of a lapsed expired license and temporary retirement following the passage of a new statutory provision and Tenn. Code Ann. § 62-13-318 by the General Assembly.

Specifically, the rule set the statutorily permissible penalty schedule for those impacted licensees and clarify the requirements for reinstatement, including those for continuing education.

LEGAL SECTION

CONSENT AGENDA

The following cases were presented to the Commission via a Consent Agenda. All cases were reviewed by legal counsel and were recommended for either dismissal or disciplinary action.

A motion was made to accept Counsel's recommendation for complaints 1-61 except for the following complaints, which were pulled for further discussion: **2024032181, 2024040041, 2024040571, 2024040981, 2024041151, 2024045511, 2024044511, 2024049401, 2024044911, 2024041921**. A motion to accept was made by Commissioner Smith and seconded by Commissioner Moffett. The motion carried unanimously.

After further discussion on complaint 2024032181 a motion was made by Commissioner Gaughan and seconded by Commissioner Guinn to issue a Letter of

Instruction cautioning respondent to obtain a VLS license within thirty (30) days. The motion carried unanimously.

After further discussion on complaint 2024040041 a motion was made by Commissioner Gaughan and seconded by Commissioner Torbett to authorize a formal hearing and issue a Consent Order with a one thousand dollar civil penalty (\$1,000.00) and to also require a six (6) hour CORE course within one hundred and twenty days of the execution of the Consent Order, which will not count toward CE need for licensure renewal for the violation of § Tenn. Code Ann. 62-13-403(4) which provides that licensees provide services to each party of the transaction with honesty and good faith. The Commission also voted to include information regarding revocation. The motion carried unanimously.

After further discussion on complaint **2024040571** a motion to accept counsel's recommendation to dismiss was made by Commissioner Smith and seconded by Commissioner Torbett. The motion carried unanimously.

After further discussion on complaint **2024040981** a motion was made by Commissioner Farris and seconded by Commissioner Tucker to accept counsel's recommendation to issue a One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity in violation of Tenn. Code Ann. § 62-13-301. The motion carried unanimously.

After further discussion on complaint **2024041151** a motion was made by Commissioner Farris and seconded by Commissioner Torbett One Thousand Dollar (\$1,000.00) civil penalty for failure to answer the complaint in ten (10) days as required by Tenn. Code Ann. § 62-13-313(a)(2). The motion carried unanimously.

After further discussion on complaint **2024045511** a motion was made by Commissioner Smith and seconded by Commissioner Moffett to accept counsel's recommendation to dismiss. Motion carried unanimously.

After further discussion on complaint **2024044511** a motion was made by Commissioner Farris and seconded by Commissioner Torbett to accept counsel's recommendation to One Thousand Dollar (\$1,000.00) civil penalty for failure to answer the complaint in ten (10) days as required by Tenn. Code Ann. § 62-13-313(a)(2). The motion carried unanimously.

After further discussion on complaint **2024049401** a motion was made by Commissioner Smith and seconded by Commissioner Moffett to authorize a formal

hearing and issue a Consent Order with a two hundred and fifty dollar (\$250.00) civil penalty for failure to exercise reasonable skill and care. The motion carried unanimously.

After further discussion on complaint **2024044911** a motion was made by Commissioner Farris and seconded by Commissioner Moffett to authorize a formal hearing and issue a Consent Order for voluntary revocation and to also open an administrative complaint against the Principal Broker of the firm for failing to operate in honesty and in good faith. The motion carried 7-1 with Commissioner Gaughan voting no.

After further discussion on complaint **2024041921** a motion was made by Commissioner Farris and seconded by Commissioner Torbett to accept counsel's recommendation to dismiss. The motion carried unanimously.

COMMISSION DISCUSSION

Gift Cards

Ms. Matlock reminded the Commission of two (2) rulemaking packages coming before the Commission, both this month and December. The rulemaking hearing today is related to the rules for temporary retirement and the statutory amendment. In December, a rulemaking hearing will cover the retrospective rule review package edits following a review from the Department. Today, Ms. Matlock sought clarity on the rule edits related to gift cards, Tenn. Comp. R. & Regs. 1260-02-.33. Following a discussion of the Commission, the Commission voted to amend the rules to permit gift cards for broker open houses and as closing gift. The amendments will be presented at the rulemaking hearing in December for approval.

Fresh Start Act

Commissioner Diaz requested a review of the *Fresh Start Act*, which relates to licensing approval for individuals with past criminal convictions. Ms. Matlock provided the Commission a copy of the statutory provision, Tenn. Code Ann. § 62-76-104, and reviewed the criteria to be considered if an applicant is to be denied related to a criminal conviction and appeal rights available to the applicant. Ms. Matlock also clarified that the *Fresh Start Act* does not apply to disciplinary actions from a state, local, or federal occupational licensing entity.

MEETING ADJOURNED AT 11:15AM