

**OKLAHOMA REAL ESTATE COMMISSION
AGENDA – BUSINESS MEETING
January 13, 2010**

PRELIMINARY AGENDA

I. OPENING OF BUSINESS MEETING

- A. Call to Order: 8:30 a.m.
- B. Approval of Minutes from the November 18, 2009 regular meeting
- C. Public Participation (Open Topic)
- D. The Commission May Vote to Approve, Disapprove or Take Other Action on any Item Listed on this Agenda

II. FORMAL ACTION – APPEALS/HEARINGS

A. APPLICANT APPEAL

A-2009-026 – STANLEY ALLEN STEVENS (PSA) – BARTLESVILLE (SOKOLOSKY): Administratively denied on July 23, 2009 based on the fact that he disclosed on his application that he was “currently on parole or probation, including a deferred sentence”. Information provided to and gathered by the Investigation Department revealed the following:

CF-2008-17 (January 11, 2008) Washington County, Oklahoma: Charged with Distribution of Controlled Substance, including Possession with Intent, and received a five (5) year deferred sentence with three (3) years supervised probation and \$576.00 in fines and court costs. The deferred sentence is scheduled to end January 6, 2012 and a balance of \$326.00 is still owed, and

CF-2008-33 (January 23, 2008) Washington County, Oklahoma: Charged with two counts of Conspiracy to Distribute Controlled Dangerous Substance and one count of Distribution of Controlled Substance. He received a five (5) year deferred sentence with three (3) years supervised probation, to run concurrent with the sentence received under CF-2008-17. He also received \$1,277.80 in fines and court costs. The deferred sentence is scheduled to end January 6, 2012 and as of January 10, 2010, a balance of \$1,277.80 is still owed.

A-2009-037 – VIOLET LYNN FARMER (PSA) – YUKON (SOKOLOSKY): Administratively denied on September 28, 2009 based on the fact that she disclosed on her application that she had been convicted of a crime and is currently on probation. Information provided to and gathered by the Investigation Department revealed the following:

OKO550600/CF-07-5490 (August 3, 2007) Oklahoma City, Oklahoma: Charged with Possession of a Controlled Dangerous Substance in the Presence of Children under

12 (Felony), and received a 5 year suspended sentence, which will end on or about April 1, 2013.

A-2009-040 – **BRYAN ANDREW METHVIN (PSA) – MOORE (KISNER)**: Administratively denied on October 29, 2009 based on the fact that he disclosed on his application that he had “received a conviction, was presently on parole or probation, and in the last ten (10) years had received a deferred sentence which was later dismissed.” Information provided to and gathered by the Investigation Department revealed the following:

CM-09-0298 (February 1, 2009) Cleveland County, Oklahoma: Charged with Domestic Assault and Battery/Abuse and received a one (1) year deferred sentence, Domestic Violence Counseling and ordered to pay \$421.50 in fines and court costs. His deferred sentence is scheduled to end on June 23, 2010 and he is paying \$50.00 per month towards the fine and court costs.

A-2009-043 – **WILLIAM EDWARD HOLCOMBE (PSA) – EDMOND (KISNER)**: Administratively denied on November 19, 2009 based on the fact that he disclosed on his application that he had been convicted of a crime. Information provided to and gathered by the Investigation Department revealed the following:

TX05164707 (September 14, 1993) Garland, Texas: Charged with Theft and was ordered to pay \$300.00 restitution; and sentenced to 18 months in the Federal Correctional Institution – Texarkana. He received supervised release on August 26, 1998.

B. HEARING EXAMINER REPORT

C-2008-004 – **NITA GRIMES AND ASSOCIATES REALTY INCORPORATED, JUANITA F. COOK (BM) – MIDWEST CITY, JEQUETTA SUE COMBS (BP) – CHOCTAW, ROBERT E. HAWKINS (BP) – NEWALLA, AND CAROLE J. LEHMAN (SA) – CHOCTAW (KISNER)**:

On November 18, 2009 Respondents Hawkins and Lehman appeared before the Commission, at which time Mr. Hawkins reiterated his exception to the Hearing Examiner’s report and recommendation. Following presentation and discussion, a motion was made and carried to approve the recommendation ordering both Respondents to pay an administrative fine of Five Hundred Dollars. Mr. Hawkins appears before the Commission today to request reconsideration of the Commission’s decision. Respondent Carole Lehman is not a party to this request for reconsideration.

On August 28, 2009 the Hearing Examiner reported that Respondent Carole J. Lehman was found in violation of Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-13-2, and Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-11-1(a).

Respondent Robert E. Hawkins was found in violation of Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(6).

The case against Respondents Nita Grimes and Associates Realty Incorporated, Juanita Cook and Jequetta Combs was previously closed.

Recommendation: That Respondent Carole J. Lehman shall be required to pay an administrative fine in the sum of Two Hundred Fifty Dollars (\$250.00) for each violation, for a total of **Five Hundred Dollars** (\$500.00), and that Respondent Robert E. Hawkins shall be required to pay an administrative fine in the sum of **Five Hundred Dollars** (\$500.00).

- *Executive Session pursuant to 25 O.S. §307(B) (8), for the purpose of discussing the Hearing Examiner's recommendation and appropriate discipline, if any:*
 1. Vote to enter into Executive Session.
 2. Discussion in Executive Session.
 3. Vote to return to Open Session.
 4. Commission to vote/take appropriate action on Hearing Examiner's recommendation.

C-2007-110 – MCGRAW DAVISSON STEWART INCORPORATED, C. VINSON REED (BM), MCGRAW DAVISSON STEWART INCORPORATED (BO), JUDY J. PIERCE (BB) AND A. REX WATKINSON III (BA) – TULSA (KISNER):

On September 9, 2009 the Commission approved the Hearing Examiner's recommendation regarding Respondent A. Rex Watkinson, and ordered that he be required to pay an administrative fine totaling **Two Thousand Dollars** (\$2,000.00).

On October 21, 2009 the Oklahoma Real Estate Commission received a letter from Respondent Watkinson declaring financial hardship and requesting a "payout" over a period of time for the fines levied against him.

Recommendation: This case is being presented for reconsideration and recommendation of a modified order stipulating a payment plan for Respondent A. Rex Watkinson III, who was found in violation of *Title 59 O.S. §858-312, Subsection 9* for operating Clear Creek Properties Incorporated outside the supervision of McGraw Davisson Stewart Incorporated, and *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(14)*, in that he managed Patio Condominiums Home Owners Association as a branch office broker without possessing the necessary license. The modified order would also reflect that a letter of caution would be placed into Respondent Judy Pierce's file.

The remaining Respondents (McGraw Davisson Stewart Inc, McGraw Davisson Stewart Inc (BO), C. Vinson Reed and Judy Pierce) have paid their fine.

- *Executive Session pursuant to 25 O.S. §307(B) (8), for the purpose of discussing the Hearing Examiner's recommendation and appropriate discipline, if any:*
 1. Vote to enter into Executive Session.
 2. Discussion in Executive Session.
 3. Vote to return to Open Session.
 4. Commission to vote/take appropriate action on Hearing Examiner's recommendation.

C-2008-061 – JOHN J. TANNER (BP) AND ELIZABETH ANN LAWLEY (SA) –TULSA (KISNER):

On November 18, 2009 The Commission voted to reject Hearing Examiner Kisner's report and recommendation against Respondent Lawley, and ordered that she be given a reduced fine with dismissal of the Failure to Disclose charge.

A motion has been filed by the Prosecuting Attorney (Jerry Sokolosky) for the reconsideration and clarification of the agency order, to reflect that Respondent Lawley is in violation of:

1) *Title 59 O.S. §858-312, Subsection 8 and 9, and Title 59 O.S. §858-354(B)(1), in that she acted improperly, made a misrepresentation to, and was not honest with the buyer.*

Respondent John Tanner did not violate any provision of the Oklahoma Real Estate License Code or the Rules of the Commission.

Recommendation: That Respondent Elizabeth Lawley shall be required to pay an administrative fine in the sum of **One Thousand Dollars** (\$1,000.00), and that the case against John J. Tanner shall be dismissed.

- *Executive Session pursuant to 25 O.S. §307(B) (8), for the purpose of discussing the Hearing Examiner's recommendation and appropriate discipline, **if any**:*
 1. Vote to enter into Executive Session.
 2. Discussion in Executive Session.
 3. Vote to return to Open Session.
 4. Commission to vote/take appropriate action on Hearing Examiner's recommendation.

C-2008-029 – MICHAEL E. GILBERT (BA) – SHAWNEE (SOKOLOSKY): On August 25, 2009 the Hearing Examiner reported that Respondent Gilbert had been found in violation of Title 59 O.S. §858-312, Subsections 9 and 15, in that he entered a Plea of Guilty to the felony charge of Making a Lewd Proposal to a Child, in Case Number CF-2006-298 in the District Court of Seminole County, Oklahoma.

Recommendation: That the Oklahoma Real Estate Broker's license of Respondent Gilbert is placed on probation until September 14, 2017; that the respondent is ordered to report to the Commission any conviction of a crime, or violation of his probation, and that the respondent is required to pay an administrative fine of **One Thousand Dollars** (\$1,000.00).

- *Executive Session pursuant to 25 O.S. §307(B) (8), for the purpose of discussing the Hearing Examiner's recommendation and appropriate discipline, **if any**:*
 1. Vote to enter into Executive Session.
 2. Discussion in Executive Session.
 3. Vote to return to Open Session.
 4. Commission to vote/take appropriate action on Hearing Examiner's recommendation.

C-2008-075 – **JERRY DON DANIEL (SA) – POTEAU (SOKOLOSKY)**: On August 25, 2009 the Hearing Examiner reported that Respondent Daniel had been found in violation of Title 59 O.S. §858-312, Subsection 1, in that he failed to disclose on his application for license that he had received misdemeanor convictions in the past.

Recommendation: That Respondent Jerry Daniel shall be given a formal reprimand and required to pay an administrative fine of **One Thousand Dollars** (\$1,000.00).

- *Executive Session pursuant to 25 O.S. §307(B) (8), for the purpose of discussing the Hearing Examiner's recommendation and appropriate discipline, if any:*
 1. Vote to enter into Executive Session.
 2. Discussion in Executive Session.
 3. Vote to return to Open Session.
 4. Commission to vote/take appropriate action on Hearing Examiner's recommendation.

III. COMPLAINTS/INVESTIGATIONS

A. **CASE EXAMINER REPORT / PRELIMINARY INVESTIGATION**

C-2008-055 – **CORONET ENTERPRISES INCORPORATED AND KIMBERLY ANNE FOX (BM) – BROKEN ARROW (SOKOLOSKY)**: Possible violations by respondents:

- 1) *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-13-1(n)(1), (2) and (4),* in that they may have ceased all real estate activities without proper notice to the Commission and to the complainant;
- 2) *Title 59 O.S. §858-312, Subsections 6, 8 and 9,* in that they may have failed to remit monies and other documents to the complainant regarding the management of complainant's rental property, and
- 3) *Title 59 O.S. §858-312, Subsections 8 and 9 and Rules 605:10-17-2(b) and 605:10-17-4(9) (12),* in that they may have failed to submit an adequate written response to the complaint within fifteen (15) days and failed to turn over to the Commission copies of all documents and records pertaining to the transaction which is the subject of the complaint.

Recommendation: Set Formal Hearing.

C-2008-056 – **CORONET ENTERPRISES INCORPORATED, KIMBERLY ANNE FOX (BM) – BROKEN ARROW; AND HEATHER MICHELLE BROWN (SA) – TULSA (SOKOLOSKY)**: Possible violations by respondents:

- 1) *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-13-1(n)(1), (2) and (4),* in that they may have ceased all real estate activities without proper notice to the Commission and to the complainant;

2) *Title 59 O.S. §858-312, Subsections 6, 8 and 9*, in that they may have failed to remit monies and other documents to the complainant regarding the management of complainant's rental property, and

3) *Title 59 O.S. §858-312, Subsections 8 and 9 and Rules 605:10-17-2(b) and 605:10-17-4(9) (12)*, in that they may have failed to submit an adequate written response to the complaint within fifteen (15) days and failed to turn over to the Commission copies of all documents and records pertaining to the transaction which is the subject of the complaint.

Recommendation: Set Formal Hearing.

C-2008-067 – HEARD & KNIGHT AUCTION AND REAL ESTATE LLC AND EARL D. HEARD III (BM) – CLINTON (SOKOLOSKY): No evidence was received to indicate any violation of the Oklahoma Real Estate License Code by the Respondents.

Recommendation: Close case.

B. INVESTIGATIVE REPORT

C-2007-113 – RUDY WYATT REALTY INCORPORATED, GEORGE G. GRIFFITH (BM) AND TERRY BOWMAN (BA) – BROKEN ARROW (KUEFFLER): Complainant alleged that Respondent Bowman failed to disclose certain material defects to him during the sale of her own property. He alleged she failed to fully disclose defects with the heat and air vents under the house in the crawl space.

After review of the allegations, there was no evidence received to indicate a violation of the Oklahoma Real Estate License Code and Rules that would sustain a complaint against the Respondents.

Recommendation: Close case.

C-2008-030 – MCGRAW DAVISSON STEWART INCORPORATED AND C. VINSON REED (BM) – TULSA (KUEFFLER): Information was received by the Commission indicating the respondents were advertising buyer inducements in several advertisements involving properties in a development identified as South County.

After review of the allegations, there was no evidence received to indicate a violation of the Oklahoma Real Estate License Code and Rules that would sustain a complaint against the Respondents.

Recommendation: Close case.

C-2008-090 – MCGRAW DAVISSON STEWART INCORPORATED, C. VINSON REED (BM), MCGRAW DAVISSON STEWART INCORPORATED (BO), THOMAS L. FORBES (BB), MCGRAW DAVISSON STEWART INCORPORATED (BO) AND JUDY J. PIERCE (BB) – TULSA (KUEFFLER): Complainant stated that he submitted an earnest money deposit for a contract to purchase real property located at 6709 and 6711 South 78th East Avenue, Tulsa, Oklahoma on March 14, 2008. The complainant alleged respondents refused to return the earnest money deposit to him after the contract failed to consummate.

After review of the allegations, there was no evidence received to indicate a violation of the Oklahoma Real Estate License Code and Rules that would sustain a complaint against the Respondents.

Recommendation: Close case.

C-2008-092 – CB ADVANTAGE REAL ESTATE LLC, JUDY K. LINDSAY (BA) AND JOHN M. CASSIDY (BA) – EDMOND (KUEFFLER): Complainants stated they contracted to purchase a new home from New Haven Homes through CB Advantage. The contract contained a provision that should the complainants become unable to sell their current home they would receive a full refund of their \$2,000.00 earnest money deposit from the builder. Ultimately, the contract failed and a release for earnest money was prepared by the complainant's representative, Sheila Oakley of Ken Oakley Group Real Estate and submitted to CB Advantage. The complainants were notified by Respondent Cassidy that a refund of the earnest money would not be forthcoming because New Haven Homes, who had been holding the deposit, had become defunct. The complainants allege CB Advantage should be responsible for their earnest money deposit because the offer their representative submitted identified the holder of the deposit as CB Advantage.

After review of the allegations, there was no evidence received to indicate a violation of the Oklahoma Real Estate License Code and Rules that would sustain a complaint against the Respondent.

Recommendation: Close case with a letter of caution to all respondents for failing to provide a written disclosure to Bridgeport Development LLC disclosing their intent to provide fewer services than required to complete a transaction as required by Title 59 O.S. §858-354(F).

C-2009-028 – EDRA DOROTHY KRUTE-DEVIN (SA) – TULSA (DANLEY): Information was received by the Commission regarding the respondent's reinstatement application indicating that she was delinquent on student loans. Respondent Krute-Devin stated that she is still behind on payments and it has been difficult to keep current since she began her career in real estate, but also advised that she fully intends to repay the loans as soon as her income becomes more stable. On December 7, 2009 the respondent provided a billing statement which showed that she is in repayment on the loan, with an outstanding balance of \$12,067.00 and monthly payments of \$50.00.

After review of the allegations, there was no evidence received to indicate a violation of the Oklahoma Real Estate License Code and Rules that would sustain a complaint against the Respondent.

Recommendation: Close case.

C-2009-035 – DETRICK REALTY INCORPORATED, CAROL A. MORGAN SPINKS (BM), DETRICK REALTY INCORPORATED (BO), JACK H. HODGSON (BB), SANDRA L. MORGAN (SA) – TULSA; ALLIANCE REAL ESTATE GROUP INCORPORATED, REGINA M. YAGER (BM) AND SANDRA S. DAWSON (BA) – OKLAHOMA CITY (DANLEY): Complainant alleged that Respondent Sandra Morgan made a false promise in the sale of the property located at 14935 Buddy Avenue Inola, Oklahoma, in that a repair credit in

the amount of \$1,500.00 was not issued at the time of closing, although it had been agreed to by the seller (HomeSteps).

After review of the allegations, there was no evidence received to indicate a violation of the Oklahoma Real Estate License Code and Rules that would sustain a complaint against the Respondents.

Recommendation: Close case.

C-2009-038 – WEALTHIA HOPE (BP) – TULSA (DANLEY): Complainants alleged that the respondent advertised a property for rent, which she and her husband owned, but did not indicate that a pet deposit was required until the lease agreement was presented. The complainants also alleged that when they requested their \$200.00 deposit back, the respondent's husband provided a check for \$140.00, but later placed a "stop payment" on it.

After review of the allegations, there was no evidence received to indicate a violation of the Oklahoma Real Estate License Code and Rules that would sustain a complaint against the Respondent.

Recommendation: Close case.

U-2009-005 – WAYNE LONG CONSTRUCTION INCORPORATED (UNLICENSED) AND WAYNE LONG (UNLICENSED) – OKLAHOMA CITY (DANLEY): Information was received by the Commission indicating that Wayne Long Construction Incorporated and Wayne Long are offering Oklahoma properties for sale that they do not own.

After review of the allegations, there was no evidence received to indicate a violation of the Oklahoma Real Estate License Code and Rules that would sustain a complaint against the Respondents.

Recommendation: Close case with a letter of caution to Respondent Wayne Long in that it may be misleading for him to place or allow his sign to be placed at the home of a property which he does not own.

IV. FINANCIAL AND FISCAL

- 1) Financial Report through November 2009 (THIS REPORT IS FOR INFORMATION ONLY AND NO VOTE TO APPROVE/ACCEPT IS NEEDED)
- 2) Discussion of financial status of the Oklahoma Real Estate Commission
 - i. Anniversary reception estimated cost: **\$12,084.00** (to be used from the 200 Fund)
 - ii. Tulsa / Oklahoma City Commission Meeting cost comparison: **\$11,495.20 v. \$1,693.40** (to be used from the 200 fund)
- 3) Authorization of funds for travel to the ARELLO Mid-Year Conference – April 7-10, 2010 in Colorado Springs, Colorado
- 4) Authorization of funds for the spring instructor orientation workshop, at a cost of **\$5,134.70** to the Education and Recovery Fund

V. EDUCATION

Report from the Education and Licensing Program Director (THIS REPORT IS FOR INFORMATION ONLY AND NO VOTE TO APPROVE/ACCEPT IS NEEDED)

VI. INDUSTRY UPDATES

- 1) Report from Broker Relationships Act (BRA) Task Force
- 2) Report from Contract Committee
- 3) Report from Errors and Omissions (E&O) Task Force
- 4) Report from Real Estate Research Center Task Force
- 5) Broker-sponsored promotional drawings for licensees

VII. GENERAL BUSINESS

- 1) Discussion of Attorney General Opinion (09-38) on the subject of ***“a person who is not an employee of a cabin owner and who, for a fee, rents out a cabin in Oklahoma to tourists based on a daily rate, or negotiates or attempts to negotiate any such activity, or solicits listings of such cabins for rent, or advertises or holds himself or herself out as engaged in such activities, must be licensed as a real estate broker by the Oklahoma Real Estate Commission because such person falls within the definition of a real estate broker as set forth at Title 59 O.S. §858-102(2).”***

Also in attendance and participating in this discussion will be Hardy Watkins, Executive Director of the Oklahoma Tourism and Recreation Department, Representative R.C. Pruett – District 19, and Representative Dennis Bailey – District 1 (author of HB-2305).

- 2) Fred Ayers, of the American Society of Home Inspectors, discussing the role of Home Inspectors before the Commission
- 3) Draft of Permanent Rules to be effective July 1, 2010
- 4) Legislative action for 2010

VIII. NEW BUSINESS

Any new business not known about or which could not have been reasonably foreseen prior to the time of posting of the agenda

IX. ACTION ON NEXT MEETING DATE

February 10, 2010

X. ADJOURNMENT