

**OKLAHOMA REAL ESTATE COMMISSION
AGENDA – BUSINESS MEETING
February 10, 2010**

AGENDA

I. OPENING OF BUSINESS MEETING

- A. Call to Order: 8:30 a.m.**
- B. Approval of Minutes from the January 13, 2010 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-2009-040 – BRYAN ANDREW METHVIN (PSA) – MOORE (SOKOLOSKY): 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 (SOKOLOSKY)**: *Mr. Holcombe appeared before the Commission on January 13, 2010 at which time a decision on his appeal was tabled pending appearance of a sponsoring broker.*

Applicant was 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-2008-061 – **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.

- *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

UC-2008-007 – **MICHAEL METOYER (UNLICENSED) – ALEXANDRIA, LA; RICHARD ALLEN COLBERT JR. (SA) – YUKON; ABW INCORPORATED AND GENE LOWELL (BM) – OKLAHOMA CITY (HOLMES)**: Possible violations by Respondent Colbert:

1) *Title 59 O.S. §858-312, Subsection 6 and Rule 605:10-13-2(1), in that he may have failed to account for or remit money belonging to others;*

- 2) *Title 59 O.S. §858-312, Subsection 8 and Rule 605:10-17-4(12)*, in that he may have conducted rental leasing negotiation, in soliciting an agreement to manage associated conditionally with the purchase, which exhibited bad faith or incompetency;
- 3) *Title 59 O.S. §858-356 (B) and Rule 605:10-15-2(a)(1)*, in that he may have failed to execute a broker service agreement with Richard Parker;
- 4) *Title 59 O.S. §858-312, Subsection 8 and Rule 605:10-17-4 (14)*, in that he may have acted as a broker when not licensed as a broker, in facilitating rentals with an unlicensed individual, and accepted security deposits and rent payments and deposited same into an unauthorized trust account without the knowledge or consent of his broker;
- 5) *Title 59 O.S. §858-312, Subsection 3 and Rule 605:10-13-1(a,1,c)*, in that he may have failed to register Richard Parker's trust account in the name of his broker;
- 6) *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-11-1 (a)*, in that he may have disregarded the Code and Rules of the Commission in acting in the capacity of a broker as defined in the Code and not acting as an associate, in that he operated outside of and without the knowledge, consent or supervision of his sponsoring broker, and
- 7) *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-11-1 (c)*, in that he may have disregarded the Rules of the Commission by being a partner of, employer or an associate of and working with an unlicensed individual while performing licensable activities.

Possible violations by Respondent Metoyer:

- 1) *Title 59 O.S. §858-102 Subsection 2, Title 59 O.S. §858-301 and Title 59 O.S. §858-402*, in that he may have conducted real estate transactions which require an active real estate license

There was no evidence of any wrongdoing or violations against Respondents ABW Incorporated and Gene Lowell.

Recommendation: Set Formal Hearing on Respondents Michael Metoyer and Richard Colbert, Jr. and close case against ABW Incorporated and Gene Lowell

B. INVESTIGATORS REPORT

C-2007-094 – FRANK EDWARD PRIEGEL (BP) – OKMULGEE (KUEFFLER): Complainant alleged that she paid a \$2,500.00 down payment for property that her daughter and granddaughter purchased through an owner-financed mortgage with the respondent. She stated the respondent failed to provide a lead disclosure and subsequently her granddaughter began exhibiting conditions related to lead poisoning.

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-2008-091 – JERRY HALE AND ASSOCIATES LLC – OKMULGEE; HUEANNA DUFF (BB) – EUFAULA; BILL WALLACE (BP), JOHN ALLEN HALL (SA) AND BRUCE WILLARD MERCER (PSA) – OKMULGEE (KUEFFLER): The complainant stated she listed her property for sale with Bruce Mercer of Century 21 in Okmulgee, Oklahoma. She stated Respondent Mercer recommended a contractor to her to complete repairs to a bathroom in her property. Respondent Mercer ultimately left Century 21 and her listing was then assigned to John Hall. She alleged the contractor failed to complete the repairs in a timely manner for property inspections and Respondent Hall instructed him to install bathroom fixtures only for appearances for the inspection and then remove them. She was later informed that a potential purchaser would not be purchasing her property as expected. She asked Respondent Hall about the earnest money and was told “Well, good luck getting it.”

The complainant ultimately listed her property with John Hausam and her property was sold on February 29, 2008.

She further stated litigation was pursued against the contractor. The complainant stated that during the proceedings Respondent Hall testified on behalf of the contractor at which time he revealed confidential information on the sale of her home.

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-2009-012 – METRO FIRST REALTY LLC, MAURICE L. SHEPHERD (BM) AND DAWN MARIE REUTER (SA) – OKLAHOMA CITY (KUEFFLER): The complainant alleged the respondents had false facts concerning the sale of his property and that they failed to negotiate with the original buyers. He further alleged that they allowed a lien to be placed on his property by false documents.

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

UC-2008-008 – RIKIMARIE ZAMARRIPA (UNLICENSED), METRO FIRST REALTY LLC, MAURICE L. SHEPHERD (BM) AND DONALD DEAN BELCHER II (SA) – OKLAHOMA CITY (KUEFFLER): The complainant alleged Respondent Belcher was allowing Respondent Zamarippa to take telephone calls from potential purchasers, show properties and write contracts while being unlicensed. The complainant also stated that Respondent Belcher was driving without a driver’s license due to two Driving under the Influence (DUI) arrests.

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

U-2009-002 – R & R RENTALS AND INVESTMENTS LLC, STEPHEN ROBINSON (UNLICENSED) AND TRACY RUFFIN (UNLICENSED) – OKLAHOMA CITY (KUEFFLER): The complainant stated Respondent Ruffin assumed property management services in January 2008, but failed to sign a contract to that effect. The complainant stated purchases and claims were made by the respondent for the property which has

resulted in a financial loss to the owner. The complainant also alleged rents were collected by the respondent but not released to the owner.

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

IV. FINANCIAL AND FISCAL

- 1) Financial report through January FY 2010
 - (THIS REPORT IS FOR INFORMATION ONLY AND NO VOTE TO APPROVE/REJECT IS NEEDED)
- 2) Discussion of OREC Anniversary reception estimated cost: **\$12,084.00** (to be used from the 200 Fund)
- 3) Discussion of Tulsa / Oklahoma City Commission Meeting cost comparison: **\$11,495.20 v. \$1,693.40** (to be used from the 200 fund)
- 4) Travel Committee report and recommendation
 - a. Authorization of funds for travel to the ARELLO Annual Conference, to be held September 14 – 17, 2010 in Anchorage, Alaska

V. EDUCATION

Report from the Education and Licensing Program Director

- (THIS REPORT IS FOR INFORMATION ONLY AND NO VOTE TO APPROVE/REJECT 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) PowerPoint presentation and information session with Fred Ayers (Executive Director of the Oklahoma Residential/Commercial Inspection Association) regarding general problems associated with the new Home Inspection Law and Standards, and how they might effect real estate licensees
- 2) Draft of Permanent Rules to be effective July 1, 2010
- 3) Presentation and discussion of Legislation items before the 2nd Session of the 52nd Legislature (2010):

- a) **SENATE BILL 2098** – Legislation which would allow investigators to be certified by the Council on Law Enforcement Education and Training (CLEET)
 - b) **SENATE BILL 2305** – Legislation which relates to the Oklahoma Real Estate License Code, and would modify exceptions from licensing (Cabin rentals)
 - c) **HOUSE JOINT RESOLUTION 1073** – A joint resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 23 of Article X of the Constitution of the State of Oklahoma (Reduction of revenue sources for certain governmental entities)
- 4) Discussion of alternative methods of communication with licensees, including electronic (i.e. postcard mailings, Facebook, etc.)

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

March 10, 2010

X. ADJOURNMENT