

NOTICE IS HEREBY GIVEN THAT THE REGULAR MONTHLY MEETING OF MEMBERS OF THE OKLAHOMA REAL ESTATE COMMISSION WILL BE HELD AT THE FOLLOWING TIME AND PLACE:

MARCH 9, 2011 – 8:30 A.M.

**OKLAHOMA REAL ESTATE COMMISSION
2401 NW 23RD STREET, SUITE 18
OKLAHOMA CITY, OKLAHOMA**

AGENDA

I. OPENING OF BUSINESS MEETING

- A. Call to Order: 8:30 a.m.**
- B. Approval of Minutes from the January 12, 2011 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**
- E. PUBLIC HEARING at 10:30 a.m. for adoption of permanent rules to be effective July 1, 2011:**

- 605:10-3-3 Proceedings upon application for a license**
- 605:10-3-7 Provisional sales associate postlicense education requirement**
- 605:10-5-1 Approval of prelicense course offerings**
- 605:10-5-1.1 Approval of postlicense course offerings**
- 605:10-5-2 Approval of continuing education offerings**
- 605:10-5-3 Standards for Commission approved real estate courses**
- 605:10-7-2 License terms and fees; renewals; reinstatements**
- 605:10-7-8 Corporation licensing procedures and requirements of good standing**
- 605:10-7-8.1 Partnership licensing procedures and requirements of good standing**
- 605:10-7-8.2 Association licensing procedures and requirements of good standing**
- 605:10-7-8.3 Sole Proprietor licensing procedures [NEW RULE]**

- 605:10-7-10 Resident applicants currently or previously licensed in other jurisdictions**
- 605:10-9-1 Place of business and broker requirements**
- 605:10-9-4 Advertising**
- 605:10-9-5 Broker change of address or office telephone number**

II. FORMAL ACTION – APPEALS/HEARINGS

A. APPLICANT APPEAL

E-2011-001: MARVIN STERLING (INSTRUCTOR) – OKLAHOMA CITY (KISNER)

Mr. Sterling's application for the License Experience Equivalency Point System was administratively denied on January 3, 2011, based on the fact that he did not meet the minimum point requirement for approval.

B. CONSENT AGREEMENT

C-2008-057: SMITH REAL ESTATE & PROPERTY LLC, GARY D. SMITH (BM), VICKIE L. BANTER (BA), JOHN R. KEITH (BP) AND CAROLYN SUE SMITH (SA) – ENID (PRESLAR)

Respondents **Gary D. Smith** and **Vickie L. Bainter** were found to be in violation of Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-13-1, in that they failed to maintain the records of the transaction with the complainant.

No evidence was received to indicate a violation of the Oklahoma Real Estate License Code and Rules by the remaining respondents.

Consented: Respondents Gary D. Smith and Vickie L. Bainter have each consented to the assessment of an administrative fine of \$500.00, for a total of **One Thousand Dollars (\$1,000.00)**.

(As per Title 59 O.S. §858-402(4), said fine will be paid within thirty (30) days of receipt of the Final Consent Order; failure to pay the fine within thirty (30) days of the Order will cause the fine to double; failure to pay the doubled fine within an additional thirty (30) days will cause the respondents license to be automatically revoked.)

Further, the case against Respondents Smith Real Estate & Property LLC, John R. Keith and Carolyn Sue Smith would be closed.

C-2010-016: DENNIS MICHAEL BARRY (BM) AND JENNIFER C. BARRY (SA) – EDMOND (PRESLAR)

Respondent **Jennifer Barry** was found to be in violation of Title 59 O.S. §858-312, Subsections 8, 9 and 19, in that on February 3, 2010, she entered a plea of Guilty to the criminal charge of Conspiracy to Commit Bank Fraud in the United States District Court for the Western District of Oklahoma.

Respondent **Dennis Barry** is not a party to this Consent Order.

Consented: Respondent **Jennifer C. Barry** has consented to the following:

- Will continue to make timely restitution payments as ordered by the criminal proceedings held in the U.S. District Court for the Western District of Oklahoma;
- Will be placed on probation equal to the terms ordered by the criminal proceedings held in the U.S. District Court for the Western District of Oklahoma, that being February 2015;
- She will attend and complete three (3) hours of Continuing Education in subject of Professional Standards, and three (3) hours of Continuing Education in the subject of Laws and Rules. Attendance and completion of the Continuing Education must be fulfilled within six (6) months of the date of receipt of the Final Order;
- She will report any probation violation, new arrest(s) and/or charges to the Commission within ten (10) days of the occurrence; and
- She will provide the Commission with quarterly updates on her restitution status, until full restitution has been made.

UC-2009-006: RENTAL OKC, CHRIS STONER (UNLICENSED), GREEN MEADOW REALTY INCORPORATED, LINDA McELROY (BM) AND TRUDY LA NAE STONER (SA) (PRESLAR)

Respondents **Rental OKC** and **Chris Stoner** were found to be in violation of:

- *Title 59 O.S. §858-401*, in that they engaged in licensable real estate activities while not possessing an Oklahoma real estate license, and may have received and accepted a commission or other valuable consideration from those activities, in that they marketed, solicited and negotiated for lease and/or rent properties which they did not own.

Respondent **Trudy La Nae Stoner** was found to be in violation of:

- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12)*, in that she engaged in improper conduct and demonstrated incompetency by referring a consumer to unlicensed persons and entities (Chris Stoner and Rental OKC) to handle licensable real estate activities.

No evidence was received to indicate a violation of the Oklahoma Real Estate License Code and Rules by respondents Green Meadow Realty Incorporated and Linda A. McElroy.

Consented: Respondents Rental OKC and Chris Stoner have consented to an assessment of an administrative fine of Four Thousand Five Hundred Dollars (\$4,500.00), and will each obtain an Oklahoma real estate license within sixty (60) days of receipt of the Final Order.

Respondent Trudy Stoner has consented to the assessment of an administrative fine of Five Hundred Dollars (\$500.00), and will attend and complete three (3) hours of disciplinary Continuing Education in the subject of "Prohibited Acts" within six (6) months of receipt of the Final Order.

C. HEARING EXAMINER REPORT

C-2009-020: TRACI LYNN PATMAN (SA) – OKLAHOMA CITY (KISNER)

This case was presented before the Commission during the January 12, 2011 meeting, at which time the Hearing Examiner's recommendation was rejected and the case was ordered to be presented on a future agenda with an order of revocation.

On November 8, 2010 the Hearing Examiner found the respondent to be in violation of the following:

- *Title 59 O.S. §858-312, Subsections 9 and 19*, in that she was convicted of one (1) Felony count of Embezzlement and three (3) Felony counts of Making False Entry in Corporate Records, and
- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(9)*, in that she failed to provide to the Oklahoma Real Estate Commission an updated restitution balance upon request by the Commission.

Recommendation: The Commission has rejected the recommendations of the Hearing Examiner as presented in his report and hereby orders that the sales associate license of Traci Lynn Patman be revoked.

- *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-2010-038: DOUGLAS WILCOX (B) – BIXBY (KISNER)

Possible violation by respondent:

- Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-4(c)(1), in that he may have failed to disclose on all documents pertaining to the purchase of property at 2910 West 66th Street, Tulsa, Oklahoma, that he is a real estate licensee.

Recommendation: Set Formal Hearing.

C-2010-046: ERNIE PHILPOTT REALTY INCORPORATED, PAUL L. POWELL (BM), CHARLEY MCGILL (BA) AND GARY B. SURBER (SA) – CHICKASHA (KISNER)

Possible violations by Respondents **Ernie Philpott Realty Incorporated** and **Paul L. Powell:**

- *Title 59 O.S. §858-312, Subsection 3 and Title 59 O.S. §858-351 through 858-363*, in that they may have failed to properly disclose their broker relationships to the parties;
- *Title 59 O.S. §858-312, Subsection 8 and Rule 605:10-17-4(12)*, in that they may have provided a Broker Confirmation to the complainant with disclosures of single party, but changed the disclosure at a later date without the knowledge or consent of the parties; and
- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(6)*, in that they may have failed to properly supervise the activities of Respondents Charley McGill and Gary B. Surber.

Possible violations by Respondent **Charley McGill:**

- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12)*, in that he may have failed to communicate to the buyer a request for an earnest money deposit, as requested by Respondent Gary Surber; and
- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12)*, in that he may have failed to request a verification of the buyer's settlement funds.

Possible violations by Respondent **Gary B. Surber:**

- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12)*, in that he may have provided false or inaccurate information to the complainant seller in that he informed the complainant that a \$200.00 earnest money check had been received from the buyer;

- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12)*, in that he may have failed to ensure that complainant's property remained in the Multiple Listing Service (MLS) as requested by the complainant; and
- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12)*, in that he may have failed to keep all parties fully informed during the course of the transaction.

Recommendation: Set Formal Hearing.

C-2010-077: DON L. FAULKNER (BB) – EDMOND (SOKOLOSKY)

Possible violations by respondent:

- *Title 59 O.S. §858-312, Subsection 1*, in that he may have made a materially false or fraudulent statement in his license renewal application submitted on May 25, 2004, wherein he stated that he had no criminal charges pending; and
- *Title 59 O.S. §858-312, Subsections 9 and 15*, in that he may be unworthy to act as a real estate licensee due to his repeated arrests and convictions for Driving Under the Influence (DUI).

Recommendation: Set Formal Hearing.

B. INVESTIGATOR REPORT

UC-2009-006: RENTAL OKC, CHRIS STONER (UNLICENSED), GREEN MEADOW REALTY INCORPORATED, LINDA A. MCELROY (BM) AND TRUDY LA NAE STONER (SA) – OKLAHOMA CITY (DANLEY)

The complainant alleged that he hired respondents Rental OKC and Chris Stoner to manage his property located in the Southwest area of Oklahoma City. He stated that the tenants leasing the property through Respondent Chris Stoner caused substantial damage to the dwelling. Once the tenants were removed from the property, Respondent Chris Stoner allegedly agreed to return the full deposit of \$1,500.00 and a pet deposit of \$200.00, but failed to do so.

The complainant also stated that Respondent Trudy Stoner helped him determine the rent rate for the property, and she knowingly allowed her husband (Chris Stoner), who is unlicensed, to perform licensable activities.

Oklahoma State Court records indicate that the complainant filed suit against Respondents Rental OKC and Chris Stoner under Case Number SC-2009-2736, and was awarded a judgment in the amount of \$1,500.00 on July 15, 2009.

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 respondents Green Meadow Realty Incorporated and Linda A. McElroy.

Respondents Rental OKC, Chris Stoner and Trudy Stoner have previously entered into consent agreements.

Recommendation: Close case against respondents Green Meadow Realty Incorporated and Linda A. McElroy.

C-2010-061: CENTRAL OKLAHOMA REAL ESTATE GROUP INCORPORATED, JALAL FARZANEH (BM) AND JENNY ROCABADO ZARATE (SA) – NORMAN (DANLEY)

Complainant alleged that Respondent Zarate advertised a listing located in Midwest City on Craigslist without disclosing that she was licensed, and without including the name or trade name of her broker.

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 Jenny Zarate reminding her to identify her broker and/or disclose her license status in all advertisements.

C-2008-085: PARAMOUNT PROPERTY GROUP LLC, PARAMOUNT REALTY GROUP LLC, DAVID L. MYRICK (BA) AND MELISSA ANN WHEELER (SA) – OKLAHOMA CITY (KUEFFLER)

Information was received from Respondent David Myrick that while he was the managing broker for Paramount Property Group LLC, trust monies for certain properties had been removed from the trust account and used to pay expenses and payroll for other properties managed by Paramount Property Group LLC and/or Paramount Realty Group LLC.

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 David Myrick and Melissa Wheeler for failing to submit a written response within fifteen (15) days.

UC-2008-014: BECKY PEEK (UNLICENSED), PARAMOUNT PROPERTY GROUP LLC, DAVID KENT PEEK (SA), DAVID L. MYRICK (BA) AND MELISSA ANN WHEELER (SA) – OKLAHOMA CITY (KUEFFLER)

The Complainant alleged that the respondents excessively charged management fees to Rex Strickland, the owner of property managed by Paramount Property Group.

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 David Myrick and Melissa Wheeler for failing to submit a written response within fifteen (15) days.

C-2009-083: SHELLY DIANE JOHNSTON (SA) – OKLAHOMA CITY (KUEFFLER)

Information was received from the respondent's prior managing broker that she had accepted a \$1,000.00 earnest money deposit from a prospective purchaser, but failed to return the money when the offer was withdrawn by the purchaser

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-2009-088: EINSTEIN GROUP LLC, GWEN A. ARVESON (BM) – NORMAN; EINSTEIN GROUP LLC (BO), JAMES MICHAEL CLARK (BB), JORGE A. GAMBOA (SA) AND ROSINELY RUIZ (SA) – EDMOND (KUEFFLER)

Information was received indicating that Respondent Jorge Gamboa was performing licensable activities while his license was suspended. The information also indicated that Respondent Ruiz, while under the supervision of Respondent Clark, was assisting Gamboa in performing those activities by allowing him to use her Multiple Listing Service (MLS) key.

Respondent Clark may have failed to properly supervise Respondents Gamboa and Ruiz in this matter, and Respondent Gwen Arveson, as the main office broker, may have failed to properly supervise Respondent Clark.

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-2009-089: HUMPHREY REALTY INCORPORATED, WILLIAM E. HUMPHREY (BM), MATILDE SAN MARTIN DE GEIGER (SA) AND JANNA JARMAN (BP) – EDMOND (KUEFFLER)

The complainant alleged that the respondents failed to properly represent her interests in the sale of property located in Wynnewood, Oklahoma. She alleged that a false home inspection report was submitted by Respondent Geiger and that Respondent Jarman failed to return an earnest money deposit to her upon demand.

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-2010-008: COUNTRY & TOWN REAL ESTATE INCORPORATED AND MARTIN VAN METER (BM) – DURANT; VERNON DALE TOWNSEND (SA) – CALERA (KUEFFLER)

The complainants stated that the property was owned by Cecil Potter and he listed his property for sale with Country & Town Real Estate wherein Cecil Potter required that an addendum be attached to the listing agreement stating that the property may not be used for modular or mobile homes without the seller's approval. There was also an addendum stating that the seller wished to retain all minerals.

Subsequently a portion of the property was sold to Lisa McKinney, but the mineral rights were not retained for Cecil Potter. Further, the remaining property was later sold to Jason Mauck, wherein the addendum statement regarding the modular or mobile homes was not included.

Ms. McKinney alleges that she issued a letter to Respondent VanMeter requesting his assistance in rectifying the errors but did not receive a response.

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 Respondents Country & Town Incorporated and Martin VanMeter for failing to identify where the earnest money deposit of \$500.00 receipted by Ronnie Russell would be held.

C-2010-049: SANTA FE REALTY INCORPORATED, EVELYN P. RENFRO (BM) AND LINDA GAIL YOUNG (SA) – MCALESTER (KUEFFLER)

The complainant alleged that the respondents failed to inform themselves of pertinent facts regarding property they had listed for sale.

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-2010-062: CAROUSEL REALTY INCORPORATED, MONTY PAUL STRICKLAND (BM) AND JOHN ABBOTT (BA) – MOORE (KUEFFLER)

The complainant submitted information alleging that Respondent Abbott posted a property advertisement on craigslist.com and failed to indicate he was a real estate broker.

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-2011-003: PAUL SEIKO STEWART (SA) – CHOCTAW (KUEFFLER)

Upon renewal, the respondent disclosed that he had been convicted of a crime and had previously reported the information to the Commission. Commission records did not reflect a previous disclosure of any crimes or pending charges by the respondent.

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 Respondent Paul Stewart for entering a guilty plea in a crime involving moral turpitude.

U-2009-020: DANA L. CLIFTON (UNLICENSED) AND TONY ESCHEW (UNLICENSED) – OKLAHOMA CITY (KUEFFLER)

The complainant alleged that the respondents managed property she leased, and stated that she had received notice of a foreclosure action due to nonpayment by the property owner, Edward Meyer.

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-2010-029: REGINA LYNNE STANLEY – BROKEN ARROW (BAKER)

The Investigations Department received a reinstatement application for the respondent dated September 8, 2009, from the Records Department. The respondent indicated she had no previous convictions. Information received on the background check indicated that on or about July 27, 1996, she was charged with Out of State Fugitive Reference – Felony in case FW-96-E00379 in Miami, Florida.

On November 19, 2009, Respondent Stanley was requested to provide court documents concerning the charges, but failed to respond to that request. On March 18, 2010, she was sent another request for the documents via certified mail. That request was returned to the Commission office on April 5, 2010, marked "Return to Sender – Unclaimed – Unable to Forward". A formal investigation was opened on April 22, 2010.

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-2010-032: LONDA LEA ROBINSON (SA) – OKLAHOMA CITY (BAKER)

The Investigations Department received a reinstatement application for the respondent dated March 19, 2010, from the Records Department. The respondent indicated she was currently on a deferred sentence.

Information received on the background check indicated that on or about December 27, 2008, she was charged and pled guilty to Misdemeanor Driving Under the Influence (DUI) in case CM-2009-0168 in Oklahoma County, Oklahoma. She received a two year deferred sentence that will be completed in August 2011.

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 Respondent Robinson indicating that she may have demonstrated unworthiness to act as a real estate licensee based on the guilty plea in Case Number CM-09-0168 in Oklahoma County, Oklahoma, and also to remind her of the requirement to report to the Commission any conviction she may receive or successful completion of the deferred sentence.

C-2010-034: THRESHOLD MANAGEMENT LLC, JEFFREY D. LANGUM (BM), THRESHOLD MANAGEMENT LLC (BO) AND WILLIAM M. BUMM (BB) – OKLAHOMA CITY (BAKER)

The complainant alleged that Respondent Bumm refused to retain the security deposit on her rental property when the tenants breached the contract by having an extra person living in the property. The complainant also alleged that Respondent Bumm refused to show her property to bring in a new tenant.

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. GENERAL BUSINESS

1) Legislative Update:

- **Senate Bill 648** – Commission's legislation
- **Senate Bill 684** – Request for license exemption for those who lease Affordable Housing Development Projects
- **House Bill 1223** – Requirement to use Attorney General's Office as counsel
- **Senate Bill 874** – Requirement that all contract and attorney services go out for an RFP and be posted on the website

- **House Bill 1304** – Consolidating all state agency Information Technology (IT) personnel and transferring them to the Oklahoma Office of State Finance (OSF)
- **Senate Bill 772** – Consolidating the Oklahoma Real Estate Commission with approximately 25 other boards and commissions, to be overseen by the Oklahoma Department of Commerce
- **House Bill 1086** – Consolidating all of the commission's claim payments and payroll
- **House Bill 1044** – Requirement that all rules must now have the approval of the House and Senate, or they are disapproved

The Commission continues to monitor the following legislation:

- **House Bill 1208** – Power to replace the director or commissioner of any agency
 - **House Bill 1598** – Square footage disclosure
 - **House Bill 1513** – Veteran's Building
 - **Senate Bill 657** – Electronic Signature Act
- 2) Discussion of the Midwest City Multi-Housing Rental Registration program, and the possibility that some of its requirements might conflict with Oklahoma Law; and possible request for Attorney General's opinion
 - 3) Consideration of items to be discussed at the next Commission Meeting

V. FINANCIAL AND FISCAL

- 1) Financial report
- 2) Authorization of travel to attend the ARELLO Mid-Year Meeting, to be held April 4 – 6, 2011 in Destin, Florida
- 3) Authorization for the Prelicense Instructor Evaluation Program, at a cost not to exceed \$5,000.00 each fiscal year from the Education and Recovery fund

VI. EDUCATION

- 1) Report from the Education and Licensing Program Director
- 2) Report on the Education and Examination Survey

VII. INDUSTRY UPDATES

- 1) Report from Broker Relationships Act (BRA) Task Force
- 2) Report from Contract Committee

VIII. PERSONNEL

Executive Session pursuant to 25 O.S. §307(B) (1), for the purpose of discussing the annual evaluation and salary of the Executive Director

1. Vote to enter into Executive Session
2. Discuss evaluation and salary of Executive Director
3. Vote to return to open session
4. Commission to vote/take appropriate action on annual evaluation and salary of the Executive Director

IX. 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

X. NEXT MEETING DATE

The next scheduled meeting date is: **APRIL 13, 2011**

XI. ADJOURNMENT