

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:

MAY 18, 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 April 13th 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-2011-006: PAUL NICK POPE (BROKER) – LAWTON (SOKOLOSKY)

Mr. Pope appeared before the Commission on April 13, 2011, at which time a decision on his appeal was tabled pending further investigation and furnishing of additional documentation as requested by the Commissioners.

The applicant was administratively denied on February 25, 2011 based on the fact that he disclosed on his application that he had had a professional or occupational license reprimanded or subjected to disciplinary action.

Information provided to and gathered by the Investigations Department revealed that on April 21, 2009, Mr. Pope voluntarily surrendered his California Department of Real Estate license while under investigation for possible violation of the Mortgage Foreclosure Consultants Act (CDRE Case Number H-35502-LA). Although no charges were brought against him, the case is considered unresolved.

B. CONSENT AGREEMENT

C-2010-038: DOUGLAS L. WILLCOX (BM) – BIXBY

Violations by respondent:

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

Consented: Respondent Douglas L. Willcox has consented to payment of an administrative fine in the amount of Two Hundred Fifty Dollars (\$250.00).

C. HEARING EXAMINER REPORT

C-2009-057: METRO FIRST REALTY LLC, MAURICE L. SHEPHERD (BM), METRO FIRST REALTY LLC (BO), ROBERT D. COWGER (BB) AND MELINDA ANN STEVENSON (SA) – OKLAHOMA CITY AND EDMOND (DAY)

On April 13, 2011, the Commission rejected the Hearing Examiner's Report and ordered that a Modified Order be written with revisions to the recommended punishment.

On September 21, 2010, the Hearing Examiner found Respondent **Maurice Shepherd** to be in violation of the following:

- *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-4(6)*, in that he failed to properly supervise the activities of Respondent Melinda Stevenson, concerning the Wolf Creek property and apartment locator service.

Respondent **Robert Cowger** was found to be in violation of the following:

- *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-4(6)*, in that he failed to properly supervise the activities of Respondent Melinda Stevenson, concerning the Wolf Creek property and apartment locator service.

Respondent **Melinda Stevenson** was found to be in violation of the following:

- *Title 59 O.S. §858-312, Subsections 8 and 9*, in that she engaged in a repeated pattern of conduct of using her real estate license and making false statements to induce individuals to enter into real estate contracts with her, concerning the Wolf Creek, Simmons, South McArthur, 206th Street and Horseshoe Road properties;
- *Title 59 O.S. §858-312, Subsections 6, 8 and 9 and Rule 605:10-13-2*, in that she failed to deliver earnest money to her broker, concerning the White Pine Circle property;
- *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-4(b)*, in that she failed to identify her broker in a written advertisement in connection with the Apartment Locator Service;

- *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-11-2(g)*, in that she relocated her residence on multiple occasions without notifying the Commission of her change of address(es);
- *Title 59 O.S. §858-312, Subsections 2, 8 and 9 and Rule 605:10-17-5(1)*, in that she submitted a fraudulent document for the purpose of inducing a lender to loan a sum of money in connection with the Wolf Creek property;
- *Title 59 O.S. §858-312, Subsections 6 and 9*, in that she failed to furnish copies of a real estate purchase contract to the seller in connection with the White Pine Circle property;
- *Title 59 O.S. §858-353*, in that she failed to identify herself as a “transaction broker” on a transaction in which she was the purchaser, and in which she represented and advocated on behalf of herself, in connection with the Wolf Creek property;
- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-11-1*, in that she conducted real estate transactions outside the supervision of her broker in connection with the Wolf Creek, Simmons, 206th Street and White Pine Circle properties, as well as the Apartment Locator Service;
- *Title 59 O.S. §858-312, Subsections 4 and 9 and Rule 605:10-13-2(12)*, in that she accepted a commission as a real estate associate for the performance of real estate activities from a person other than her broker in connection with the 206th Street property;
- *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-4(16)*, in that she failed to obtain the owner’s permission prior to moving her personal property into the 206th Street property which she had contracted to purchase;
- *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-4(c)(1)*, in that she failed to disclose on all documents pertaining to the purchase of Simmons property that she was a real estate licensee; and
- *Title 59 O.S. §858-353*, in that she failed to comply with the broker relationship disclosure requirements in connection with her purchase contract dated March 28, 2009, regarding the Wolf Creek property.

Recommendation: The Modified Hearing Examiner Report recommends:

1. That Respondent Maurice L. Shepherd be given a letter of reprimand and assessed an administrative fine of **Five Hundred Dollars (\$500.00)**;
 2. That Respondent Robert D. Cowger be given a letter of reprimand and assessed an administrative fine of **Five Hundred Dollars (\$500.00)**;
 3. That Respondent Melinda Ann Stevenson be assessed an administrative fine of **Five Thousand Dollars (\$5,000.00)**; and
 4. That the real estate sales associate license of Respondent Melinda Ann Stevenson 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.

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

On April 13, 2011, the Commission rejected the Hearing Examiner's Report and ordered that a Modified Order be written with revisions to the recommended punishment.

On March 4, 2011, the Hearing Examiner found Respondent **Dennis M. Barry** to be in violation of the following:

- *Title 59 O.S. §858-312, Subsections 8, 9 and 19*, in that he entered a plea of guilty to the criminal charge of conspiracy to commit bank fraud (United States District Court for the Western District of Oklahoma Case Number CR-09-273-2-R); and
- *Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-5*, in that he failed to notify and file a change of address for his business with the Commission within ten (10) days of the change of address.

Recommendation: The Modified Hearing Examiner Report recommends that:

1. The real estate broker license of Respondent Dennis Michael Barry be revoked;
2. The Oklahoma real estate sales associate license of Respondent Dennis Barry be suspended for a period of five (5) years, with four (4) years and eight (8) months suspended;
3. Upon completion of the period of suspension (4 months), the Oklahoma Real Estate Sales Associate license of Respondent Dennis Barry will be reinstated;
4. The Respondent Dennis Barry be required to comply with all terms and provisions of the sentence rendered by the United States District Court for the Western District of Oklahoma (CR-09-273-2-R);
5. Respondent Dennis Barry be placed on probation until February 2, 2015;
6. Respondent Dennis Barry be required to attend and complete within six (6) months from the date of receipt of the Final Order, three (3) hours of continuing education concerning the subject of "Professional Standards";
7. Respondent Dennis Barry be required to attend and complete, within six (6) months from the date of receipt of the Final Order, three (3) hours of continuing education concerning the subject of "Laws and Rules";
8. Respondent Dennis Barry be required to "self-report any violation of his probation within ten (10) days of the occurrence; and

9. Respondent Dennis Barry be required to provide a written quarterly report to the Commission, informing the Commission as to the status of his restitution payments, until the restitution has been fully satisfied.
- *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-2009-039: APRIL LOUISE HICKEY (SA) – OKMULGEE (SOKOLOSKY)

On March 4, 2011, the Hearing Examiner found the respondent to be in violation of the following:

- *Title 59 O.S. §858-312 Subsections 8, 9 and 15*, in that her Declaration in an action before the Department of Real Estate in the State of California (Case Number H-5334 SAC), in which she stated that the allegations made against her consisting of substantial misrepresentations, fraud and dishonest dealings in violation of the Business and Professions Code of the State of California could be considered as true and correct.

Recommendation: The Hearing Examiner recommends that the Oklahoma Sales Associate License of Respondent April Hickey 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.

C-2008-077: CAROLYN HARRIS REALTY INCORPORATED, CAROLYN R. HARRIS-BECK (BM), PAMELA DENISE VALLANDINGHAM (BA) AND MERRILY DARLENE SHORT (SA) – SHAWNEE – (KISNER)

On March 2, 2011, the Hearing Examiner found respondents **Carolyn Harris Realty Incorporated, Carolyn Harris-Beck, Pamela Vallandingham and Merrily Short** to be in violation of the following:

- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rules 605:10-17-4(3) and 605:10-17-4(12)*, in that they failed to advise the complainant of the discrepancies regarding the size of the acreage which was being purchased by the complainant.

Respondents **Carolyn Harris Realty Incorporated** and **Carolyn Harris-Beck** were found to be in violation of:

- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-46*), in that they failed to properly supervise the activities of Respondents Pamela Vallandingham and Merrily Short.

Recommendation: The Hearing Examiner recommends that Respondents Carolyn Harris Realty Incorporated, Carolyn R. Harris-Beck, Pamela Denise Vallandingham and Merrily Darlene Short be ordered and required to pay an administrative fine of Five Hundred Dollars each, for a total fine of **Two Thousand Dollars (\$2,000.00)**.

Further, the Hearing Examiner recommends that Respondents Carolyn Harris Realty Incorporated and Carolyn R. Harris-Beck be ordered and required to pay an administrative fine of Five Hundred Dollars each, for a total fine of **One Thousand Dollars (\$1,000.00)** for failing to properly supervise the activities of Pamela Vallandingham and Merrily Short.

- *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-2009-002: GOLD CASTLE LLC AND HAROLD D. REECE – OKLAHOMA CITY – (KISNER)

On March 3, 2011, the Hearing Examiner found no evidence that the Respondents violated any provision of the Oklahoma Real Estate License Code or the Rules of the Commission.

Recommendation: The Hearing Examiner recommends that this case 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.

III. COMPLAINTS/INVESTIGATIONS

A. CASE EXAMINER / PRELIMINARY INVESTIGATION REPORT

C-2010-078: WAYNE D. CHAMBERS (SA) – HOLDENVILLE (SOKOLOSKY)

Possible violations by respondent:

- Title 59 O.S. §858-312, Subsections 9 and 15, in that October 10, 2010, he was found Guilty in the United States District Court for the Western District of Oklahoma, of the crime of Lying to a Grand Jury, a crime involving moral turpitude.

Recommendation: Set Formal Hearing.

C-2010-050: REALTY III INCORPORATED, PHIL L. EDWARDS (BM) AND JEFFREY SCOTT SCHAFER (SA) – ENID (KISNER)

Possible violations by Respondents **Realty III Incorporated** and **Phil L. Edwards**:

- *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 Respondent Jeffrey Schaffer in that they allowed him to sign a contract extension on behalf of the complainant while acting in the capacity of a transaction broker, and without the express knowledge or consent of the complainant.

Possible violations by Respondent **Jeffrey Schaffer**:

- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rules 605:10-17-4(20) and 605:10-17-4(12)*, in that he may have signed a contract extension on behalf of the complainant while acting in the capacity of a transaction broker, and without the express knowledge or consent of the complainant.

Recommendation: Set Formal Hearing.

C-2010-053: CINDY LEA INCORPORATED, CINDY LEA KELLEY (BM), CINDY LEA INCORPORATED (BO) AND MACHELLE ANNETTE ALLEN (BB) – WEATHERFORD AND ANADARKO (KISNER)

Possible violations by Respondents **Cindy Lea Kelley** and **Cindy Lea Incorporated**:

- *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 Machelles Allen and Cindy Lea Incorporated (BO) in that they failed to ensure that said Respondents:
 - 1) submitted an offer in writing in the amount actually offered by the prospective buyer;
 - 2) provided a Settlement Statement to the complainant when the property in question was purchased by Respondent Allen;

- 3) disclosed a broker relationship at the time Respondent Allen purchased the property; and
- 4) provided the seller with a Settlement Statement for the transaction in question.

Possible violations by Respondents **Machelle Annette Allen** and **Cindy Lea Incorporated (BO)**:

- *Title 59 O.S. §858-312, Subsection 2*, in that they may have made substantial misrepresentations to the seller in that they submitted to the seller a price that was lower than that actually offered by the prospective buyers, for the purpose of influencing the seller to sell the property to Respondent Allen so that she, in turn, could sell the property to the prospective buyers for a higher price;
- *Title 59 O.S. §858-312, Subsection 3*, in that they may have failed to comply with the requirements of Title 59 O.S. §858-351 through 858-363 in that they failed to disclose a broker relationship at the time Respondent Allen purchased the property in question;
- *Title 59 O.S. §858-312, Subsections 6 and 9 Rule 605:10-13-1(f)*, in that they may have failed to provide the seller with a Settlement Statement for the transaction in question, and
- *Title 59 O.S. §858-312, Subsections 8 and 9 and Rules 605:10-17-4, 605:10-17-8, 605:10-17-10 and 605:10-17-12*, in that they may have failed to inform the seller that he would be expected to pay certain costs and the amount of said costs, failed to reduce an offer to writing and misrepresented to the Seller that the offer was \$30,000.00, when in fact the offer was \$40,000.00.

Recommendation: Set Formal Hearing.

B. INVESTIGATOR REPORT

C-2010-007: CHINOWTH & COHEN LLC, SHERYL CHINOWTH (BM), LEE MARK COHEN (BA), CHINOWTH & COHEN (BO), ROSE FORD (BB) AND KERRY J. WALKINGSTICK (SA) – TULSA (BAKER)

The complainant stated that he was friends with Respondent Walkingstick and relied on his expertise and guidance to purchase a home after her divorce. Knox Inspection Services performed the inspection on the home she contracted to purchase in April 2009. She stated Knox could not finish the inspection due to the amount of water under the home, but suggested that several repairs be made.

The complainant alleged that Respondent Walkingstick led her to believe repairs were made to the home, but were not. Complainant alleged Respondent Walkingstick did not have the home re-inspected to verify that the repairs were made, causing her to make expensive repairs to the 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-2010-067: TOLSON AGENCY INCORPORATED, STEVEN DOUGLAS TOLSON (BM) AND JEFFREY DEAN PHILIPPI (BA) – PAWHUSKA (DANLEY)

The complainant alleged that the respondents deceived, misled and withheld known defects which existed on a property she purchased in Pawhuska, OK. She stated that Respondent Philippi was a family friend prior to the transaction. He informed the complainant that an appraisal and inspection report was on file for a previously failed FHA transaction. The complainant also alleged that Respondent Philippi informed her that the suggested repairs from the failed transaction had been made.

The complainant stated that although she did not like the condition of the roof or the smell inside of the property, she accepted it "as-is". She reviewed Respondent Philippi's disclosures and waived her right to perform her own appraisal and inspection.

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) Status update on pending legislation:
 - a. **SB 648** – OREC legislation
 - b. **SB 657** – Electronic signatures
 - c. **HB 1598** – Square footage
 - d. **HB 1594** – Property transfer fee
 - e. **HB 1223** – Attorney services
 - f. **SB 772 / HB 1601** – Agency Consolidation
 - g. **SB 780** – Oklahoma Home Service Contract Act, affecting those who offer home warranty programs (*this will fall under the jurisdiction of the Oklahoma Insurance Division*)
 - h. **SB 684** – License exemption
- 2) Status update on proposed rule changes (to be effective July 1, 2011)
- 3) Discussion regarding the requirement of having a branch broker at each branch office location
- 4) Status update on the request for an Attorney General opinion about city ordinances
- 5) Discussion regarding a "mail out" to real estate brokers regarding electronic transactions
- 6) Consideration of items to be discussed at next Commission Meeting

V. FINANCIAL AND FISCAL

- 1) Financial report
- 2) Authorization of travel to attend the ARELLO District 2 and 3 Conference, to be held August 12-14, 2011 in Orange Beach, Alabama

VI. EDUCATION

Report from the Education and Licensing Program Director (no motion required)

VII. INDUSTRY UPDATES

- 1) Report from Broker Relationships Act (BRA) Task Force (no motion required)
- 2) Report from Contract Committee (no motion required)

VIII. PERSONNEL

No action

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. ACTION ON NEXT MEETING DATE

Next scheduled meeting date: **June 8, 2011**

XI. ADJOURNMENT