

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:

**AUGUST 9, 2006 – 8:30 A.M.
OKLAHOMA REAL ESTATE COMMISSION
2401 NW 23RD STREET, SUITE 18
OKLAHOMA CITY, OKLAHOMA**

**OKLAHOMA REAL ESTATE COMMISSION
AGENDA – BUSINESS MEETING
August 9, 2006**

I. OPENING OF BUSINESS MEETING

- A. Call to Order – 8:30 a.m.**
- B. Approval of Minutes from June 14, 2006, regular meeting.**
- C. Public Participation (Open Topic).**
- D. Oath of Office – New Commissioner Mike Cassidy.**
- E. Election of Chairman and Vice-Chairman.**
- F. 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 APPEALS

A-2006-34 - Kenneth Wayne Ferchau (SA Reinstatement) – Del City. (Sokolosky). Reinstatement application administratively denied due to the fact that Mr. Ferchau was found guilty, under case CF-2204-413 (March 31, 2004) of “Felony Embezzlement”. Mr. Ferchau received a five (5) year sentence (deferred) until January 11, 2010; was ordered to pay Restitution of \$26,790.00; court costs, and VAC.

Mr. Ferchau’s sentence to end January 11, 2010; he has a current outstanding balance of \$19,000. Further, Mr. Ferchau filed business bankruptcy in the amount of \$685,000, which was discharged February 15, 2005.

A-2006-32 – Louis Alan Wysocki (B) – Harrah (Sokolosky). Mr. Wysocki’s application was administratively denied due to the fact that his Bar License was suspended in California under the following cases: **1)** 99-0-12436; **2)** 99-0-11483; **3)** 99-0-11482; **4)** 99-0-11481; **5)** 99-0-11452; **6)** 99-0-10740; and **7)** 99-0-10737; California Supreme Court (S087815), July 18, 2000.

Mr. Wysocki was suspended from the Practice of Law for two (2) years, with sentence suspended; placed on Probation for three (3) years subject to conditions of probation recommended by the Hearing Department of the State Bar Court; Ordered to take and pass Multi-state Professional Responsibility Examination within one (1) year; Courts award costs to State Bar in accordance with Business & Professional Code and payable in equal amounts prior to February 1st of calendar years 2001, 2002 and 2003 (approximately \$3,829.51); and required to submit quarterly reports to Probation Unit/Chief Trial Counsel.

Under Case RIM3585489 (October 1998), Mr. Wysocki was convicted of Assault & Battery, and was sentenced to three (3) years probation, fines of \$750 plus costs, restitution, and Anger Management Counseling.

A-2006-27 – David Joseph Robson (PSA) – Tulsa (Kisner). Administratively denied due to the fact that under case CM-2006-267, on June 21, 2006 he received a one (1) year deferred sentence for Driving while Under Influence of Intoxicating Liquor, Count-1; and Speeding, Count-2. Mr. Robson was fined \$363.90; ordered to complete Young Drunk Driving Program, Required to take 10-hour DUI School; he owed \$263.90 on his fine when the report was written.

A-2006-40 – Henry Sampson (PSA) – Broken Arrow (Kisner). Administratively denied due to the fact that under CF-1999-6172 Mr. Sampson was charged with “Obtaining Merchandise by Bogus Check” (felony); wherein he entered into a restitution agreement. Case dismissed August 15, 2005 after he paid restitution; however he has an outstanding balance on court costs of \$140.

Under case CF-1990-4081, Mr. Sampson was charged and sentenced for “DUI, 2nd Offense, Liquor AFCF”, Count-1; “Driving Under Revocation”, Count-2 and “Driving without Owner’s Security Verification”, Count-3. Mr. Sampson was sentenced to four (4) years incarceration (concurrent with CF-1989-2950), \$100 fine, \$100 VCA and costs on Count-1. On Counts 2 and 3 he was fined \$100 on each count. He currently has an outstanding balance on this case of \$628.97.

Under case CF-1989-2950 Mr. Sampson was sentenced to three (3) years (suspended); 80-hours of Community Service, \$1000 fine, \$100 VCA and costs. The suspended sentence was revoked February 1991 due to his arrest in Case CF-1990-4081 and he was ordered to serve three (3) years. He currently has an outstanding balance of \$429.

Further, Mr. Sampson was cited for two traffic violations in 1999 and currently has an outstanding balance of \$159.50 on each citation; has an outstanding civil judgment in the amount of \$3,200 stemming from a Forcible Detainer and Entry. His record also shows that he was arrested in 1997 for Felony-Aggravated Assault/Gun, which was later dismissed.

Mr. Sampson submitted his license application in February 2003, wherein he failed to pass the exam. On this application he indicated he had not been convicted of any crime and had no pending charges. He also made application in March 1998 wherein he failed to pass the exam and on that application he disclosed he was convicted of Driving While Intoxicated in 1990 and had filed Chapter 13 bankruptcy in 1997.

A-2006-31 – Angela Michelle Hodges (PSA) – Enid (Kisner). Administratively denied May 8, 2006 due to the following: Case TR99-039727 A and B, applicant was charged with “Failure to Produce Evidence of Responsibility” and “Failure to Carry Vehicle Registration Card”. Applicant was ordered to pay fines and costs and her license was suspended until April 3, 2000. All fines/costs were paid and the license suspension was quashed February 19, 2000.

Case CR00-009381A she was charged with “Issuing a Bad Check”, and was ordered to pay fines and costs. An application was signed and fined by Judge Castillo dismissing the complaint on April 17, 2006.

Case CR99-906114A she was charged with “Issuing a Bad Check” and ordered to pay fines and costs. A petition was signed by Judge Castillo to quash the warrant, suspend all fees, fines and costs and close the case April 17, 2006.

A-2006-39 – Michael Lee Beckham (PSA) – OKC. Administratively denied June 12, 2006. Under case CM-2001-204, “Possession of Controlled Dangerous Substance” (Felony), Count 1 and “Public Drunk” (misdemeanor), Count 2. Sentenced to one (1) year, suspended, \$250 fine, \$50 VCA, Incarceration fees, and court costs on Count 1. Sentenced to \$50 fine and \$50 VCA on Count 2.

Suspended sentence was revoked June 6, 2002 for testing positive for marijuana after a drug test. Court Ordered Mr. Beckham to complete a Clean Start Program and attend a 28-day rehabilitation treatment center.

Mr. Beckham’s OSBI Report indicates the following additional arrests: Assault & Battery on Emergency Medical Technician, September 2003; and Unauthorized Use of a Vehicle, December 2001 (the District Attorney declined to file charges in both cases).

A-2006-36 - Roy Earnest Dunlap (Lapsed PSA) - Edmond (Sokolosky). Rescheduled for further review from the June 8th Meeting wherein no action was taken. Mr. Dunlap’s request for an exemption to Rule 605:10-7-2(h) was administratively denied. The rule states “a provisional sales associate who fails to complete the postlicense education requirement prior to the first expiration date of the provisional sales associate license shall not be entitled to renew such license.” Further, the law does not allow any consideration of an exemption to the rule. Mr. Dunlap was informed he could reapply as an original applicant and show proof of completion of the forty-five (45) clock-hour basic prelicense education course.

At the June meeting, Counsel Preslar indicated this might be an issue that could be considered under the Americans with Disabilities Act (ADA). After research, it was determined that this case does qualify, however sufficient evidence would need to be submitted by Mr. Dunlap, and considered at future hearing (August 9, 2006) in order to meet an ADA exemption.

B. EXECUTIVE SESSION – Pursuant to 25 O.S. §307(B)(8) for the purpose of deliberating o the appeal of Roy Earnest Dunlap (lapsed Provisional Sales Associate); Case A-2006-36.

1. Vote to enter into Executive Session.
2. Deliberations in Case A-2006-36.
3. Vote to return to Open Session.
4. Commission to Vote/Render Decision in case C-2006-36.

C. HEARING EXAMINER REPORTS

C-2005-89 – McGraw Davisson Stewart, Inc., Joseph R. McGraw (B), McGraw Davisson Stewart, Inc. (BO), Thomas Forbes (B) – Tulsa (Kisner). A formal hearing was held wherein respondents were found in violation of the following:

McGraw Davisson Stewart, Inc. and Joseph R. McGraw violated Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(6), for failure to properly supervise the activities of an associate, as they failed to insure that Thomas Forbes and McGraw Davisson Stewart, Inc., (Branch Office) officed out of the location registered with the Commission.

McGraw Davisson Stewart, Inc. (Branch Office) and Thomas Forbes violated Title 59 O.S. §858-312, Subsections 8 and 9; and Rules 605:10-17-4(6) and 605:10-9-1(a), for failing to office out of the location registered with the Commission and for failure to insure that the office registered as the Branch Office was available to the public during reasonable business hours.

Recommend: McGraw Davisson Stewart, Inc., and Joseph R. McGraw be formally reprimanded and each assessed an administrative fine of \$500. Further, that McGraw Davisson Stewart, Inc. (BO) and Thomas L. Forbes be formally reprimanded and each assessed administrative fines of \$500 on Count-1, and \$500 on Count-2 (total of \$1,000 each).

C-2005-80 – Realtex, Inc., David Neal Wallace (B), and Richard Lee Olney (SA) – Oklahoma City (Kisner). A formal hearing was held wherein respondents Realtex, Inc. and David Wallace were found in violation of Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(b), in that they failed to file an adequate written response within fifteen days of notice that a complaint had been filed.

Respondent Richard Olney was found in violation of Title 59 O.S. §858-312, Subsections 8, 9 and 23; and Rule 605:10-15-1(a,2), in that he failed to furnish a disclosure statement to the buyer/complainant as soon as practicable; and he failed to disclose in writing to the buyer/complainant his interest in RLV Refurnishing, Inc.

Recommend: Realtex, Inc. and David Wallace each be assessed an administrative fine of \$500. Further, that Richard Olney be assessed an administrative fine of \$500 for Count-1 and a \$500 for Count-2 (\$1,000 total).

C-2005-97 – Jennifer Lee Bighorse (SA) – Tulsa (Kisner). A formal hearing was held which resulted in Findings that Respondent was the actual occupant of the home in question; she knew or should have known of the defects to the floors and walls complained of; and she failed to disclose to the buyer certain defects in the property. Respondent was found in violation of Title 59 O.S. §858-312, Subsections 2 and 9 for her failure to disclose to the buyer certain defects in the property of which she was aware or should have been aware of.

Recommend: Jennifer Bighorse be formally reprimanded and assessed an administrative fine of \$500.

U-2005-01 – Rob Barnes, d/b/a Fisher-Barnes Properties (Unlicensed) – Stillwater (Sokolosky). A formal hearing was held wherein Respondent was found in violation of Title 59 O.S. §858-102, Subsection 2 and Title 59 O.S. §858-401 in that Respondent engaged in unlicensed activities from November 2003 until December 2004 and performed duties of a "Real Estate Broker" by advertising and renting real estate owned by the Complainant.

Recommend: Rob Barnes be Ordered to pay an administrative fine of \$3,000.

U-2005-03 – Robbin Alicia Holley and W. G. (Bill) Clements, Jr. (Unlicensed) – Lindsay (Sokolosky). A formal hearing was held where respondents were found in violation of Title 59 O.S. §858-102, Subsection 2, and Title 59 O.S. §858-301, in that they engaged in unlicensed activities in the years of 2004 and 2005 and performed the duties of a "Real Estate Broker" by advertising, listing and selling real estate involving at least seventeen (17) transactions.

Recommend: that Robbin Alicia Holley be Ordered to pay an administrative fine of \$8,910.00; and that W. G. (Bill) Clements, Jr. be Ordered to pay an administrative fine of \$8,910.00.

D. CONSENT AGREEMENT

C-2005-28 – Crossroads Realty of Lawton, Inc., John Kinder (B), and J. Jay Kinder (SA) – Lawton (Sokolosky). Possible violations by Crossroads Realty of Lawton, Inc., and John Kinder: 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 an associate.

Respondent J. Jay Kinder may have violated Title 59 O.S. §858-312, Subsections 2, 8 and 9; and Rule 605:10-9-4(5), in that he may have advertised himself as possessing a Broker's license while holding a sales associate license.

Consented: John Kinder has consented to an administrative fine of \$300 and three (3) hours of additional continuing education on Licensing Laws and Regulations. J. Jay Kinder has consented to

an administrative fine of \$500 and three (3) hours of additional continuing education on Licensing Laws and Regulations.

III. COMPLAINTS/INVESTIGATIONS

A. CASE EXAMINER REPORTS

C-2005-66 – The Real Estate Place, Inc., and Steven L. Sizemore (B) – Edmond (Sokolosky). Complainant filed due to Respondent's refusal to submit an offer to the seller; the complainant alleged Respondent stated the offer should be made directly to seller.

Respondent was a transaction broker for the seller and was providing limited services to the seller. The MLS listing noted that Respondent was "not providing customary brokerage services", and that the "owners should be contacted directly". Attorney General Opinion No. 06-1 (February 14, 2006) states in the event a transaction broker is directed by the sellers to submit all offers directly to the sellers, the transaction broker is not required to submit the offer himself.

Recommend: close case.

C-2006-21 Forrest Lenn Geist – Owasso (Sokolosky). Possible violations by Geist: Title 59 O.S. §858-312, Subsections 2, 8 and 9; and Rules 605:10-17-4(9) and 605:10-17-4(12), and Title 60 O.S. §834(A) and §836(B). Geist may have acted in the capacity of a real estate licensee and attempted to obtain a commission without possessing an active license; failed to file a written response to a complaint as required by Commission rules; represented himself as a broker for Cozy Coves, LLC, an unregistered entity, in a real estate purchase agreement; failed to disclose any broker relationship; and prepared a contract which included language that the seller must provide to the buyer "at least five working days prior to Closing, a Disclosure or Disclaimer Statement

Recommend: set formal hearing

C-2005-96 – Wagoner Properties, Inc., Charlotte S. Swenson (B), and Betty Lou Pace (SA) – Wagoner (Kisner). Possible violations by Wagoner Properties, Inc., and Charlotte S. Swenson: Title 59 O.S. §858-312, Subsections 8 and 9; and Rule 605:10-13-3(a), in that they may have failed to retain the earnest money deposit in escrow until a written release was received from all parties consenting to its disposition; in that they disbursed said earnest money to Tahlequah Abstract & Title Company without a written release from the parties consenting thereto.

Betty Lou Pace may have violated Title 59 O.S. §858-312, Subsections 8 and 9; and Rule 605:10-17-4(12), in that she may have provided false information to the Complainant in that she informed her the earnest money would be disbursed to her (Complainant).

U-2006-01 – John E. Haley (Unlicensed) – Oklahoma City (Holmes). Possible violations by unlicensed individual, John Haley: Title 59 O.S. §858-102, Subsection 2; Title 59 O.S. §858-301, and §858-312, Subsections 2, 8, 9 and 11. It appears that while unlicensed, Haley may have engaged in activities requiring a license in performing the duties of advertising, listing, selling and engaging in licensable real estate activities.

Recommend: set formal hearing.

U-2005-04 – Sandra Webb and Branden R. Miller, III (Unlicensed) – Broken Arrow (Holmes). Possible violations by unlicensed individual, Branden R. Miller, III: Title 59 O.S. §858-102, Subsection 2, Title 59 O.S. §858-301 and §858-312, Subsections 2, 8 and 9. It appears that while unlicensed, Miller may have engaged in activities requiring a license in performing the duties of advertising, listing, selling and engaging in licensable real estate activities.

Recommend: set formal hearing.

B. INVESTIGATION REPORTS

C-2005-82 – Robert Kurte Kihle (SA) – Tulsa (Kueffler). The Commission received information that Respondent Kihle failed to disclose on his application that he had pled guilty to Driving While Impaired (Alcohol or Intoxicating Substance).

Recommend: Close case.

C-2005-90 – John Hausam Inc., John Louis Hausam (BM), Brooks Connor (BB), Barry Wade Curtis (PSA) – Tahlequah (Kueffler). The complainant alleged Respondent Curtis made false and misleading statements regarding lots and homes located within an area he was developing. He stated the intent of these misrepresentations was to steer and discourage prospective buyers from purchasing lots that were listed with other real estate firms.

Recommend: Close case.

C-2005-94 – Max A. Heidenreich (SA) – Tulsa (Kueffler). Respondent Max Heidenreich completed a license renewal form on April 22, 2004 and failed to report a conviction he received on March 19, 1990 for four counts of Embezzlement by Trustee and one count of Failure to File Tax Report Without Intent to Defraud.

Recommend: Close case.

C-2005-108 – Team One, Inc. and Edward L. Jones (BM) – Tulsa (Kueffler). The complainant alleged Respondent Edward L. Jones failed to represent her and her husband in a real estate transaction by failing to include her purchase of rental property. She also alleged Respondent Jones practiced dual contracting and discouraged her husband from obtaining a property inspection. She further alleged Respondent Jones commingled funds of her husband's with his own.

Recommend: Close case.

C-2006-26 – Longwith Real Estate Services, LLC and Barbara J. Longwith (BM) – Tulsa (Kueffler). The complainant alleged Respondent Barbara Longwith, as property manager of his condominium unit, has failed to provide an audit as required by the by-laws and has failed to complete repairs to his unit.

Recommend: Close case.

C-2006-28 – Sundance Real Estate and Inv., Inc. and John Kinder (BM) – Lawton (Kueffler). The complainant alleged Respondent John Kinder failed to provide required maintenance to property the complainant was leasing and also failed to accurately account for a payment made by money order.

Recommend: Close case.

U-2006-004 – Shirley Watkins – Duncan (Kueffler). On February 21, 2006 the Investigations Department received information indicating Respondent Watkins may be engaging in licensable real estate activities within the State of Oklahoma. From information submitted, it appeared Respondent Watkins is soliciting sellers and advertising properties on her website with the expectation of receiving a fee or other valuable consideration for her services.

Recommend: Close case.

C-2006-25 – Leona Williams (BP) and Jimmie N. Dooley (SA) – Pryor (Melton). Complainant stated he submitted a \$50,000.00 offer through the respondents to purchase a foreclosed property located in Pryor, Oklahoma. He was told the offer would be submitted to the seller on March 6, 2006. He stated he was informed on March 7, 2006 that his offer was rejected and that another offer for \$65,000.00 had already been rejected. He requested to see the bid and the rejection in writing, however the respondent told him she could not show it to him.

Recommend: Close case.

C-2006-35 – Sandy Ditto, Inc. and Sandra Ditto (BM) – Oklahoma City (Melton). The complainant was in the process of submitting an offer. She stated Respondent Sandra Ditto misrepresented the price and lien status of the property and acted in an unprofessional manner when she contacted her regarding the offer via e-mail.

Recommend: Close case.

C-2006-37 – James Wesley Mixon (BP), Darali K. Mixon (BA) and K. Kay Sullivan (SA) – Poteau (Melton). Complainant alleged the respondents acted in an unprofessional manner during a transaction wherein he was selling his property. He stated closing was scheduled for February 24, 2006 and the contract called for possession to be given to the buyer 30 days after closing. However, prior to the closing date, each of the respondents contacted him and wanted to know the reason he needed the 30 days.

Recommend: Close case.

C-2006-41 – Sheila A. Hoppis (BP), Donald Turner (SA) – Oklahoma City (Melton). The complainant listed his property with Respondent Hoppis in October 2005. He stated the respondent failed to actively market his property and expended no time or energy trying to sell it. He stated she advised him to move out of the house so she could show it more effectively. He added her advice needlessly cost him money because he had to pay additional rent.

The complainant stated the respondent persuaded him to purchase some real estate computer software that would help her sell his property, but the software was never used.

Recommend: Close case.

C-2006-53 – Paul M. Milburn (BP) and Richard G. Kasterke (SA) – Shawnee (Melton). The complainant purchased the subject property listed by the respondents "sight unseen". Problems arose when the respondents attempted to install the septic system. The complainant stated weeks went by and the septic system had not been installed. He was later informed the property was smaller than what was represented originally. The complainant requested the return of his down payment and the monthly payments he had made. However, the respondents stopped communicating with him and refused to return any of his money. He added he feels swindled by the respondents.

Recommend: Close Case.

IV. CASE CONSIDERATION AND DIRECTION

C-2004-38 – Viva Group, Inc. (Rent.com) and Walter Broach III (B) – Broken Arrow. Tenant is paid a rebate for signing a lease. The owner lists property on-line; if an individual rents the owner's property and goes online and completes paperwork, the online company issues a reward (\$100) to the renter, and then bills the owner for the use of their services.

On June 14, 2006, Adrienne Go, Attorney for eBay (Rent.com) was present and addressed the Commission.

Possible violation: Splitting a fee with an unlicensed person. Following presentation and discussion, no action was taken and the item was to be placed on the next agenda (August 9, 2006) for further discussion, due to the fact that the Commission currently has an exemption wherein a resident tenant can be paid a fee for recommending a tenant.

V. FINANCIAL AND FISCAL

FY-2006 Update

VI. EDUCATIONAL PROGRAMS

Discussion on whether or not to send a press release advising of the increased educational requirement effective November 1, 2006.

VII. INDUSTRY UPDATES – Discussion and/or Action

A. Rebate Issue – Discussed consumer rebates and whether they are fair to all business models. Richard Phillips, representing OAR (Oklahoma Association of Realtors), stated that their association is not currently looking at this issue. Discussed coordinating a group to review the issue and set up a meeting. The Department of Justice, Employee Relocation Corporation (ERC) and eBay are all interested in any changes the Commission might consider on this subject. Commissioner Galbraith will coordinate with OAR to get a meeting scheduled with all interested parties on this matter.

B. Letter to Commission from the Consumer Federation of America.

VIII. GENERAL BUSINESS

IX. PERSONNEL

X. NEW BUSINESS – shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of posting of the agenda (24 hours prior to the meeting).

XI. ACTION ON NEXT MEETING DATE

XII. ADJOURNMENT