

**OKLAHOMA REAL ESTATE COMMISSION  
AGENDA – BUSINESS MEETING  
September 13, 2006**

**Agenda**

**I. OPENING OF BUSINESS MEETING**

- A. Call to Order – 8:30 a.m.**
- B. Approval of Minutes from August 9, 2006 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. Emergency Rule Adoption** – The Oklahoma Real Estate Commission has found that an imminent peril exists to the preservation of the public health, safety or welfare, requiring an emergency rule and amendment to be effective November 1, 2006:

"Sections 1 and 2 of HB1510 of the 1<sup>st</sup> Regular Session of the 50<sup>th</sup> Legislature, executed by the Governor on April 18, 2005, and effective November 1, 2006, mandates increases in the Preliminary educational requirements to obtain a provisional sales associate license and a real estate broker or broker associate license from the Oklahoma Real Estate Commission. The Amendments to OAC 605:10-3-1 will set forth additional courses mandated by the increases in the pre-license educational requirements established by HB1510. This is therefore a matter of compelling public interest."

"Currently only an applicant who has failed an examination can challenge a question. This amendment will allow all applicants to challenge an examination question. The amendments to OAC 605:10-3-5(d) will require any applicant who wishes to challenge a question on an examination to submit such challenge in writing at the time of the examination. Allowing challenges to be brought by any applicant at the time of examination is a matter of compelling public interest as it extends due process considerations to all applicants, not just failing applicants."

**II. FORMAL ACTION – APPEALS/HEARINGS**

**A. APPLICANT APPEALS**

**A-2006-39** – **Michael Lee Beckham** (PSA) – OKC (Sokolosky): Administratively denied June 12, 2006. Appeared before the Commission on August 9, 2006, at which time a motion was made to table consideration of his appeal until the next meeting wherein Mr. Beckham was to have his sponsoring Broker present.

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Suspended sentence was revoked June 6, 2002 for testing positive for marijuana during a drug test.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

Mr. Beckman's OSBI Report indicates the following additional arrests: Assault & Batter 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-2006-40** – **Henry Sampson** (PSA) – Broken Arrow (Sokolosky): Administratively denied on May 8, 2006. Appeared before the Commission on August 9, 2006, at which time a motion was made to table consideration of his appeal until the next meeting wherein Mr. Sampson was to have his sponsoring Broker present.

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, 2<sup>nd</sup> Offense, Liquor AFCF", Count-1; "Driving Under Revocation", Count-2; "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-2006-37** – **Mark Kenneth Brown (PSA)** – Norman (Sokolosky): Administratively denied on June 9, 2006, due to the fact that:

1. Case #04163 Driving Under the Influence 8/25/92), received fines/fees of \$212. All fines/cost paid.
2. Applicant failed to report on his application that under case CM-2000-1398, for Driving While Privilege Revoked, he was sentenced to: 1) one year, deferred (until October 20, 2005); 2) Fined \$100; 3) VCA \$100, 4) Restitution, 5) Court Costs, and 6) Supervised Probation. For failure to report to his probation officer, his sentence was accelerated and he was further ordered to: 1) complete 20 hours of Community Service, 2) pay \$39.00 probation fee, and 3) pay restitution of \$905.09. All requirements were completed.
3. Applicant has outstanding \$10,000 judgment under case CJ-2002-898.
4. Application submitted documentation regarding his defaulted student loan, indicating he has made arrangements to repay approximately \$10,845.
5. Applicant received "Entry Separation Discharge" from the U.S. Armed Forces.

**A-2006-46** – **Robert Owen Goolsby (PSA)** – Muskogee (Kisner): Administratively denied on August 7, 2006, due to the fact that under Case Number CF-2005-89, he was charged with Felony Obtaining Merchandise by Bogus Check. Although the case was dismissed, there is still an outstanding balance of \$7,084.00, which is being restituted voluntarily on a monthly basis until January 2008.

**A-2006-60** – **Melvin David Bloss** – (PSA) – Enid (Kisner): Administratively denied on August 25, 2006, due to the fact that on July 19, 2006, the Investigations Department requested that he provide additional information regarding other arrests not initially disclosed on his application. He failed to provide information on his February 2002 arrest in Garfield County, Oklahoma for Driving Under the Influence and Transportation of Opened Container of Alcohol. Under Case Number CM-2002-78, he was sentenced to one (1) year suspended, \$400 fine, \$20 jail costs, \$30 VCF, VIP and AA meetings and alcohol program (Count 1). Count 2 was dismissed at the request of the State.

**A-2006-61** – **Timothy James Grass** – (PSA) – Tulsa (Kisner): Administratively denied on August 21, 2006, due to the fact that under Case Number TRI-2001-483, applicant was arrested and charged with Driving Under the Influence – Count 1, Failure to Stop for Stop Sign – Count 2. Received a one (1) year suspended sentence, \$600.00 fine, \$50.00 Court Fund, \$50.00 VCA, forty (40) hours of community service and court costs on Count 1. Count 2 was dismissed with costs.

Under Case Number CF-1997-94, applicant was arrested and charged with Unlawful Possession of Controlled Drug (Felony) – Count 1, Unlawful Possession of Controlled Substance (Misdemeanor) – Count 2, Unlawful Possession of Paraphernalia (Misdemeanor) – Count 3, Driving Under Suspension – Count 4, and Failure to Signal – Count 5. Counts 1 and 3 were dismissed at the request of the State; received a one (1) year suspended sentence, \$500.00 fine and costs, and \$250.00 VCF on Count 2. Received \$100.00 fine on Count 4 and \$10.00 fine on Count 5.

Under Case Number CM-1996-2050 applicant was arrested and charged with Driving Under the Influence of Alcohol in Cleveland County, Oklahoma, and received a one (1) year deferred sentence and \$400.00 fine.

## **B. HEARING EXAMINER REPORTS (PROPOSED ORDERS)**

**C-2004-22** – **Skelly Enterprises, Inc., Donna L. Skelly (BM), Brenda J. Pierce (BA) and Jerry T. Pierce (BA)** – Bartlesville (Kisner): A formal hearing was held wherein respondents were found in violation of the following:

Brenda J. Pierce and Jerry Pierce violated Title 59 O.S. §858-312, Subsections 3 and 8 and Title 59 O.S. §858-356 (B), for failure to disclose their Broker Relationship to the Complainant Seller on the Listing Agreement.

Donna L. Skelly and Skelly Enterprises violated Title 59 O.S. §858-312, Subsections 8 and 9; and Rules 605:10-17-4(6), for failing to properly supervise the activities of Brenda Pierce and Jerry Pierce.

**Recommend:** That each of the Respondents be Ordered to pay an administrative fine of \$500.

**C-2005-13** – **Monty J. Stricker (B) and Melva McMurray-Reed (SA)** – Oklahoma City (Sokolosky): A formal hearing was held wherein respondent Monty Stricker was found in violation of Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(6), in that he failed to properly supervise the activities of Melva McMurray-Reed.

Respondent Melva McMurray-Reed was found in violation of Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-7, in that she conducted real estate transactions which require an active real estate license, at a time when her real estate sales associate license was on inactive status.

**Recommend:** Respondent Monty J. Stricker be formally reprimanded and Ordered to pay an administrative fine of \$1000.00, and that Respondent Melva McMurray-Reed be Ordered to pay an administrative fine of \$600.00.

**C-2005-54 – Medley, Inc. and Joe Medley (B)** – Oklahoma City (Sokolosky): A formal hearing was held wherein Respondents were found in violation of Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-9-5(1), for failure to file a change of business address with the Commission office within ten (10) days of such change; Title 59 O.S. §858-312, Subsections 9 and 23, for furnishing a Residential Property Condition Disclosure Statement that was more than two (2) years old, and Title 59 O.S. §858-312, Subsections 6 and 9 and Rule 605:10-13-1(e), for failure to notify the Commission in writing of the closing of the property management account and depositing Complainant's earnest money check into a trust account not registered with the Commission office.

**Recommend:** The Respondents be Ordered to pay administrative fines totaling \$1100.00: a) \$100 each for failing to file a change of address, b) \$250 each for furnishing a Residential Property Condition Disclosure Statement that was more than two (2) years old, and c) \$200 each for failing to notify the Commission in writing of the closing of the property management account and depositing Complainant's earnest money into a trust account not registered with the Commission office.

**C-2006-3 – Post Enterprises, LLC and Harrell D. Post (B)** – Miami (Sokolosky): A formal hearing was held which resulted in Findings that Respondents Post Enterprises, LLC and Harrell D. Post violated Title 59 O.S. §858-312, Subsections 6 and 8 and Rules 605:10-13-1(a)(1)(A) and 605:10-17-4(12), in that the Respondents failed to deposit and hold the earnest money as indicated by the terms of the Contract; and that the Respondents violated Title 59 O.S. §858-312, Subsections 6 and 9 and Rule 605:10-13-1(a)(1)(D), in that the Respondents failed to timely deposit the earnest money check. **Recommend:** That each of the Respondents be Ordered to pay a \$150 fine for each of the above violations, for a total of \$600.

**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. §858-301 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, that that they engaged in unlicensed activities in the years 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:** 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.

### III. COMPLAINTS/INVESTIGATIONS

#### A. CASE EXAMINER REPORTS

**C-2005-48 – Leroy Jemol Smith (SA)** – Tulsa (Sokolosky): Possible violations by Smith: Title 59 O.S. §858-312, Subsections 1 and 9; Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(9). Smith may have made a materially false or fraudulent statement in his application for a real estate license, in that he failed to disclose the unpaid costs/fine judgment in Case CF-1990-416, Muskogee County, Oklahoma. He also may have failed, upon demand in writing, to file a written response to the complaint herein.

**Recommend:** Set formal hearing.

**C-2006-43 – John Raymond Schweiker** – Tulsa (Sokolosky): Possible violations by Schweiker: Title 59 O.S. §858-312, Subsections 1 and 9; Title 59 O.S. §858-312 Subsections 8, 9 and 15. Schweiker may have made a materially false statement in his application for license reinstatement in that he falsely indicated that information regarding his probation had previously been reported to the Commission. He also may have engaged in untrustworthy conduct and may be unworthy to act as a real estate licensee, in that he entered a plea of Guilty to the charges of Possession of CDS/Schedule 1, to wit: Marijuana, and Possession of Drug Paraphernalia. He is currently on probation until December 29, 2007.

**Recommend:** Set formal hearing.

**C-2005-66 – The Real Estate Place and Steven L. Sizemore (BM)** – Tulsa (Sokolosky): Possible violations: Title 59 O.S. Section 858-353, by failing to present an offer from a buyer's broker to purchase property listed by the Respondents, and Title 59 O.S. Section 858-312, paragraphs 8 and 9, by not promptly providing a Residential Disclosure Statement to a buyer's broker when requested.

**Recommend:** Close case or set formal hearing.

**B. INVESTIGATION REPORTS**

**C-2006-048** – **Humphrey Realty Incorporated, William E. Humphrey (BM) and Janna Jarman (BA)** – Pauls Valley (Melton): The complainant stated that Respondent Jarman, without his consent, inserted verbiage in the contract stating he would pay the buyer's closing cost. He stated all parties were aware he would not accept an offer less than \$99,000.00. However, when he showed for closing, the closing agent told him the contract called for him to pay the \$1,500.00. The complainant added he did not have the part of the contract that refers to him paying the closing costs.

**Recommend:** Close case.

**C-2006-051** – **Melinda Riggs (BP) and William E. Ford, Jr. (SA)** – Sallisaw (Melton): The Complainant alleged that Respondent Ford misrepresented the price of a property he listed. She paid \$133,000 for the property in December 2004; However, when the complainant decided to sell the house in May 2005, she contacted the Respondent for advice on a listing price and was given a figure substantially lower than the amount that she had originally paid, and was also told that she had paid \$8,000 too much for the property.

**Recommend:** Close case.

**C-2006-057** – **Sonlife Consulting Services LLC and Ronald J.D. Wuerch (BM)** – Tulsa (Melton): The complainant was attempting to sell a vacant lot and signed a listing agreement with the Respondent, but did not hear from him for the first six (6) months until he was informed of a possible buyer and the necessity to renew the listing agreement before proceeding. However, the complainant stated that despite several attempts, neither he nor the prospective buyer could make contact with the Respondent because he was out of the country, and the person handling the Mr. Wuerch's real estate duties seemed disinterested in the matter. Per the complainant's request, Mr. Wuerch released the listing when he returned to the USA.

**Recommend:** Close with caution.

**C-2006-069** – **Newhouse Realty LLC and Louis D. Newhouse (BM)** – Oklahoma City (Melton): The complainants allege that Respondent Newhouse behaved in an unprofessional manner while handling the sale of a commercial property. During the course of the transaction, the complainants stated that Respondent Newhouse attempted to talk them out of having the property professionally inspected, which led to the discovery of termites and other problems present when they did have it professionally inspected. They also stated that Respondent Newhouse displayed an aggressive tone of voice and was belittling to them as they had conversations with him during the course of the sale.

**Recommend:** Close case.

**C-2006-073** – **J & D Presley LLC and John D. Presley (BM)** – Oklahoma City (Melton): The Complainant, a former sales associate of the Respondent, stated that during her employment in 2001, Respondent Presley wrote her a commission check that was returned for insufficient funds, and also failed to pay her for other transactions, a situation that was resolved through the Oklahoma County District Court. Additionally, the complainant stated that the Respondent erroneously returned her license to the Oklahoma Real Estate Commission after she advised him that she would be more comfortable working from her home, rather than from his office.

**Recommend:** Close case.

**C-2005-004** – **Ted E. Goforth (BM)** – Bethany (Kueffler): The complainant alleged Respondent Goforth sold property to him and failed to disclose certain material defects. He alleged Respondent Goforth also failed to provide him with a Residential Property Condition Disclosure Statement.

**Recommend:** Close case.

**C-2005-104** – **Darin Eugene Blake (SA)** – Broken Arrow (Kueffler): Information was received indicating Respondent Blake was paid a commission for real estate activities from a source other than his managing broker in the amount of \$4,758.00.

**Recommend:** Close case.

**C-2006-016** - **Mulinix Incorporated and Mari Janette Mulinix (BM)** – Norman (Kueffler): As Managing Broker, Respondent Mari J. Mulinix received three (3) advertisement violation letters within a one year period of advertisement violations committed by her associates.

**Recommend:** Close with caution.

**C-2006-018** – **McGraw Davisson Stewart, Incorporated, Joseph R. McGraw, Jr. (BM), McGraw Davisson Stewart (BO), Lou Ann Hoffman (BB) and Virginia L. "Gini" Fox (SA)** – Tulsa (Kueffler): The complainant alleged that Respondent Fox purchased a property she was interested in after discouraging her from submitting an offer by stating a family member of the seller would be purchasing the property.

**Recommend:** Close with caution.

**C-2006-022** – **Preferred Real Estate Properties, Incorporated, Norma Jean Coppedge (BM) and Barbara L. Precure (SA)** – Oklahoma City (Kueffler): The complaint alleged that his client requested the return of his earnest money deposit from the respondents after his sale failed, but the respondents refused to send it to him.

**Recommend:** Close case.

**C-2006-030 – Cherished Homes Realty LLC, Kelly M. Willis (BM) and Jana Gayle Sage (SA) – Yukon (Kueffler):** The complainant stated that the respondents assisted him with the sale of his home in November 2004, but after reviewing the documents, he alleged the respondents charged him excessively to sell his home.

**Recommend:** Close case.

**C-2006-034 – McGraw Davisson Stewart Incorporated, Joseph R. McGraw, Jr. (BM), McGraw Davisson Stewart (BO), Richard L. Pierce (BB) and Joan Bland (SA) – Tulsa (Kueffler):** The complainant alleged Respondent Joan Bland provided false information regarding ownership of certain property she was interested in leasing, and failed to return security deposit funds after she was unsuccessful at leasing the subject property.

A supplement to the case was received on May 9, 2006 from the complainant asking to withdraw the complaint, stating the misunderstanding had been resolved and that she had made a mistake in her understanding of the situation.

**Recommend:** Close with caution.

**C-2006-038 – Mulinix Incorporated, Mari Janette Mulinix (BM) – Norman, Meredith Kay Spruiell-Smith (BA) – Oklahoma City, Century 21 Town and Country Incorporated, Marsha Nation (BM) and Shawna Renae Miller (PSA) – Harrah (Kueffler):** The complainants alleged that Respondent Spruiell-Smith failed to disclose certain material defects concerning a mobile home they purchased. The complainants also stated that Spruiell-Smith is the granddaughter of the owner.

**Recommend:** Close case.

**C-2006-042 – Tommy Dyer Real Estate Company, Tommy Ray Dyer (BM) and Joe Wayne Kight (SA) – Inola (Kueffler):** The complainant alleged Respondent Kight failed to disclose a petroleum pipeline existing on property under contract.

**Recommend:** Close case.

**C-2006-058 – Santa Fe Realty Incorporated and Evelyn P. Renfro (BM) – McAlester (Kueffler):** The complainant stated that Respondent Renfro advertised free use of a moving van if she listed or bought a home through her company. She alleged that she was denied free use of the van after she closed on a property the Respondents had listed.

**Recommend:** Close with caution.

#### IV. FINANCIAL AND FISCAL

- A. FY-2006 Update

#### V. EDUCATIONAL PROGRAMS

#### VI. PROPOSED 2007 LEGISLATION

- A. **Probationary License** – This would require that a licensee's broker submit quarterly reports on the licensee for a period of 12 months during the time the license is on active status.
- B. **Powers and Duties of the Commission** – Expand authority for the Standard Contract Committee to work on documents relating to other areas besides residential, i.e., commercial, property management, etc.
- C. **Open Records Exemption** – Exempt from Open Records educational and examination records.
- D. **Commissioner Service on Commission** – Extend the appointment period to 4 or 5 years.
- E. **Add Language pertaining to recent NAR Code of Ethics** – Amendment advising a licensee to disclose information pertaining to offers received unless otherwise prohibited by Law.

#### VII. INDUSTRY UPDATES – Rebate Task Force Update.

#### VIII. 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).

#### IX. ACTION ON NEXT MEETING DATE - October 11, 2006

#### X. ADJOURNMENT