

**OKLAHOMA REAL ESTATE COMMISSION
AGENDA – BUSINESS MEETING
November 12, 2008**

Preliminary Agenda

I. OPENING OF BUSINESS MEETING

- A. Call to Order: 8:30 a.m.
- B. Approval of Minutes from the September 10th 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. Adoption of Emergency Rules

II. FORMAL ACTION – APPEALS/HEARINGS

A. APPLICANT APPEAL

A-2008-016 – **Trey Billy Lee Weaver III (Broker) – Rogers, Arkansas** (Sokolosky): Administratively denied on March 25, 2008 based on the fact that he disclosed on his application he had a Driving While Intoxicated (DWI) conviction in Fayetteville, Arkansas, in 2001.

On January 10, 2008 the applicant was informed of the requirement for the National Criminal History Check. The applicant was also informed that if additional convictions were found on the criminal history background reports he would be required to submit information on each incident.

As of the date of this initial report, the applicant had failed to submit the fingerprint card and application for the background check and made no further contact with the Commission.

On June 26, 2008 the requested information was received from the applicant regarding the conviction:

1-0106312 (August 31, 2001) Fayetteville, Arkansas: Charged with Driving While Intoxicated (DWI) and received a 90 day suspended sentence with 16 hours of public service and fines and costs. The sentence and public service were completed and all fines and costs were paid in full.

1-0205061 (July 22, 2002) Fayetteville, Arkansas: Charged with Violation of Hot Check Law and received fines and costs as sentence. All fines and costs were paid in full.

1-0306143 (September 2, 2003) Fayetteville, Arkansas: Charged with Violation of Hot Check Law and received fines and costs as sentence. All fines and costs were paid in full.

A-2008-035 – **Aaron O’Neil Church (PSA) – Moore** (Sokolosky): Administratively denied on July 28, 2008, based on the fact that he disclosed on his application that he had received a conviction. Information provided to and gathered by the Investigation Department revealed the following details:

M-1999-667 (August 30, 1999) Pittsburg County Oklahoma: Charged with Unlawful Possession of Marijuana and Unlawful Carrying of a Weapon, and received a six (6) month

deferred sentence with court costs and fines, and twenty (20) hours of community service. The deferred sentence and community service were completed and all fines and costs were paid.

CF-2001-513 (September 17, 2001) El Reno Oklahoma: Charged with Unlawful Possession of Marijuana, and received a one (1) year suspended sentence with court costs and fines. The suspended sentence was completed and all fines and costs were paid.

CF-2001-514 (September 17, 2001) El Reno Oklahoma: Charged with Using an Offensive Weapon in a Felony, and received a three (3) year deferred sentence, which was completed in October 2004.

A-2008-036 – Wallace L. Lawrence (PSA) – Oklahoma City (Sokolosky): Administratively denied on August 8, 2008, based on the fact that although he did not disclose any convictions, pending charges or probation on his application, his Oklahoma State Bureau of Investigation (OSBI) report disclosed an arrest for Protective Order Violation (Misdemeanor) and a Traffic Violation Misdemeanor, both in Oklahoma City on January 14, 2001. Further, the applicant's request for a license was denied in 2007 (A-2007-025 and A-2007-111) based on the circumstances surrounding the revocation of his broker's license in 2003 (C-2003-016).

A-2008-047 – Tracy Alan Streich (PSA) – Tulsa (Sokolosky): Administratively denied on August 12, 2008 based on the fact that he disclosed on his application that he had a license or registration fined, reprimanded, rejected, suspended, involuntarily terminated, revoked or otherwise subjected to some type of disciplinary action.

He indicated in his personal written statement that he is a licensed Oklahoma Real Estate Appraiser, and although his license was never revoked, at one point it was reduced from Certified Appraiser to Appraiser. As a result, he was required to complete seventy-five (75) hours of continuing education, which he completed. He is currently awaiting a peer review process, after which he will retake the state exam in order to reinstate his Certified Appraiser status.

The applicant stated his license was reduced because of two incidents. The first involved an appraisal he performed in 1994 on a large home with twenty acres of land. The lender required only an appraisal of the home and five acres, which the applicant performed. Because he did not give a descriptive enough explanation about which five acres he had appraised, his report was deemed confusing. The second incident involved a home that had yet to be renovated. He performed his appraisal based on the after repair value. During renovation, the owners changed the work plans, which led to some items being added, and not others. As a result, the applicant's original square footage estimate was over by 300 feet.

Currently, the applicant stated he is in good standing with OREAB and awaiting the upgrade of his Appraisal License. Investigations contacted the Oklahoma Real Estate Appraisal Board on August 8, 2008 at 1:30 p.m. to verify the applicant's license status. OREAB advised he is currently in good standing and awaiting the upgrade of his license back to Certified Appraiser.

A-2008-048 – Shane Patrick Porterfield (PSA) – Edmond (Sokolosky): Mr. Porterfield was administratively denied on August 14, 2008, based on the fact that he disclosed on his application that he is currently on probation until January 2011 for assaulting a Police Officer. Information provided to and gathered by the Investigation Department revealed the following details:

CM-2004-4917 (December 4, 2004) Oklahoma City, Oklahoma: Charged with Driving under the Influence (DUI) – Liquor or Drugs/Actual Physical Control of Vehicle (APCV), and two (2) Traffic offense Misdemeanors. He received a two (2) year deferred sentence until January 5, 2008, \$35.00 Victim Compensation Assessment (VCA) and Department of Corrections Supervision per CF-05-3278. Costs totaling \$779.90 were paid in full.

CF-2005-3278 (May 22, 2005) Oklahoma City, Oklahoma: Charged with Felony Battery/Assault and Battery on Police Officer, and received a five (5) year deferred sentence until January 5, 2011, \$100.00 VCA, 15 weeks weekend incarceration, alcohol assessment and 40 hours of Community Service. Costs totaling \$455.90 were paid in full.

A-2008-049 – **Abby Kay Noble (SA) – Enid** (Kisner): Administratively denied on August 14, 2008, based on the fact that she disclosed on her application that she had been convicted of Driving under the Influence in the State of Iowa in 2004 and 2007. Information provided to and gathered by the Investigation Department revealed the following:

OWCR070172 (October 2, 2004) Iowa City, Iowa: Charged with Operating While Intoxicated (OWI), and was sentenced to completion of a drug course, costs and fines, and a supervisory probation period. All stipulations were satisfied.

OWCR077877 (November 14, 2006) Iowa City, Iowa: Charged with Operating While Intoxicated (OWI) – 2nd Offense, and was sentenced to 60 days incarceration, with 53 days suspended, 1 (one) year supervised probation, substance abuse evaluation, electronic monitoring, a 12-hour OWI course and fines totaling \$1,875.00.

A-2008-052 – **Parker Joe Scroggins (PSA) – Duncan** (Kisner): Administratively denied on August 19, 2008, based on the fact that he disclosed on his application that he had received a criminal conviction. Information provided to and gathered by the Investigation Department revealed the following:

T1-1988-19070 (October 22, 1988) Lawton: Charged with Disobeying a Traffic Signal, and received a \$39.00 fine and \$10.00 court costs;

T1-1988-19071 (October 22, 1988) Lawton: Charged with Transporting an Open Container, and received a \$49.00 fine and \$10.00 court costs;

T1-1988-19072 (October 22, 1988) Lawton: Charged with Driving under the Influence (DUI) and received a thirty (30) day suspended sentence, \$204.00 in fines and \$10.00 court costs. All sentences, fines and costs were satisfied.

CRM-91-155 (March 11, 1991) Stephens County: Charged with Obstructing Court Order/Violation of Protective Order, and received ninety (90) days suspended sentence, \$200.00 fine and court costs. All sentences, fine and costs were satisfied.

CM-2007-77 (February 2, 2007) Stephens County: Charged with Domestic Abuse/Assault and Battery Misdemeanor, and received a one (1) year suspended sentence, eight (8) hours community service, anger management evaluation, \$500.00 fine and \$240.00 DA supervision cost. All sentences, fines and costs were satisfied.

A-2008-055 – **Daniel Walter Baker (Broker) – Edmond** (Kisner): Administratively denied on September 8, 2008 based on the fact that he disclosed on his application that he had received a conviction. Information provided to and gathered by the Investigation Department revealed the following:

CM-1989-2249 (September 20, 1989) Edmond: Charged with Embezzlement, case was dismissed;

CF-1989-6559 (November 30, 1989) Oklahoma City: Charged with Grand Larceny/Shoplifting and received a two (2) year suspended sentence, plus fines, costs and counseling. The conviction was pardoned, and

CF-1992-4736 (August 13, 1992) Edmond: Charged with Grand Larceny and received two (2) years incarceration, three (3) years suspended sentence and fines and costs. The conviction was pardoned.

A-2008-056 – Manuel Quezada (PSA) – Owasso (Kisner): Administratively denied on September 9, 2008 based on the fact that he did not answer the question on his application regarding criminal convictions. Information gathered by the Investigation Department revealed the following:

90-5517 (November 29, 1990) West Covina, California: Charged with Taking Vehicle without Owner's Consent/Vehicle Theft (Charge 1), Possession/Manufacturing/Selling Dangerous Weapon (Charge 2) and Burglary (Charge 3). Charge 1 was dismissed; he received probation on Charge 2 and 18 months probation, with 15 days in jail and restitution on Charge 3.

A153575 (March 13, 1991) Newport Beach, California: Charged with "Pers to Make Other Liab".

A153575 (May 28, 1991) Bell, California: Charged with Carrying a Concealed Weapon on Person and Carrying a Loaded Firearm in Public Place. He received 36 months probation and 45 days in jail, which was suspended after two days were served.

A-2008-026 – Tammy R. Heims (Broker) – Canadian (Kisner): *Ms. Heims initially appeared before the Commission on June 18, 2008, at which a decision on her application was tabled pending the outcome of case C-2007-091.*

Administratively denied on June 3, 2008, based on the fact that she disclosed on her application that she pled "no contest" to embezzlement charges in Pittsburg County, Oklahoma in 2006 and disclosed that she is currently under investigation by a license-issuing agency. The applicant is currently under investigation by the Oklahoma Real Estate Commission (**Case C-2007-091**). Information provided to and gathered by the Investigation Department on August 22, 2007 revealed the following:

CF-2006-321 (May 1, 2007) Pittsburg County: Pled no contest to Embezzlement charges after it was discovered that after her employment as office manager with Realty World Service Professionals was terminated, \$500.00 in earnest money deposit received as cash and signed for by her was missing. All restitution and court costs have been paid, the six-month deferred sentence expired in February 2007 and the charges have been dismissed.

B. CONSENT AGREEMENT

C-2007-091 – Tammy R. Heims (SA) – Canadian (Preslar): Violation by Respondent: *Title 59 O.S. §858-312, Subsections 8, 9 and 19*, in that she may have entered a plea of Nolo Contendere in the District Court of Pittsburg County, State of Oklahoma for the crime of embezzlement.

Consented: Respondent Tammy R. Heims has consented to assessment of an administrative fine of **Five Hundred Dollars** (\$500.00) and a formal reprimand.

C-2007-112 – Arlene K. Marsh (SA) – Moore (Preslar): Violations by Respondent: *Title 59 O.S. §858-312, Subsection 8 and Rule 605:10-17-4(12)*, in that she may have signed documents for a party in a transaction without first establishing a single-party relationship wherein she could perform activities for the benefit of the party, and *Title 59 O.S. §858-*

351, *Subsection 5*, in that she may have operated outside the scope of her relationship as a Transaction Broker by advocating for the benefit of the buyer.

Consented: Respondent Arlene K. Marsh has consented to assessment of an administrative fine of **One Thousand Dollars** (\$1,000.00), a formal reprimand, and completion of three (3) hours of continuing education in the subject of Broker Relationships Act within six (6) months of the date of receipt of the Final Order.

C-2008-049 – **Linsey Elizabeth Yates (SA) – Fort Smith, Arkansas** (Preslar): Violations by Respondent: *Title 59 O.S. §858-312, Subsection 1*, in that she made a materially false or fraudulent statement in an application for a license, as she failed to disclose her Driving While Intoxicated (DWI) conviction.

Consented: Respondent Linsey E. Yates has consented to assessment of an administrative fine of **Two Hundred Dollars** (\$200.00) and a formal reprimand.

C. HEARING EXAMINER REPORT

C-2006-056 – **Riley and Associates LLC, Donald W. Riley (BP) – Chickasha, and David H. Brassfield (SA) – Pocasset** (Kisner): On August 5, 2008, the Hearing Examiner reported that no evidence was presented to indicate that Respondents Riley and Associates LLC and Donald W. Riley violated any provision of the Oklahoma Real Estate License Code or the Rules of the Commission.

Respondent David H. Brassfield was found in violation of *Title 59 O.S. §858-312, Subsections 3 and Rule 605:10-15-2(a)(1)*, in that he failed to provide complainant with a broker relationship agreement and *Title 59 O.S. §858-312, Subsections 6 and 9 and Rule 605:10-13-1(a)(1)(A)*, in that he failed to deposit the \$2,500.00 earnest money received in the transaction into a trust account.

Recommend: That the case against Respondents Riley and Associates LLC and Donald Riley be dismissed, and that the Oklahoma Real Estate Sales Associate License of Respondent David Brassfield be revoked.

C-2006-117 – **Wright Real Estate LLC, Scott Wright (BM) – Tahlequah, Wright Real Estate LLC (BO), Carl Wayne Haulmark (BB) and Wanda Faye Allcorn (BB) – Park Hill** (Kisner): On August 5, 2008, the Hearing Examiner reported that no evidence was presented to indicate that the Respondents violated any provision of the Oklahoma Real Estate License Code or the Rules of the Commission.

Recommend: Dismiss case.

C-2008-012 – **Donald Dean Belcher (SA) – Edmond** (Sokolosky): On September 16, 2008 the Hearing Examiner reported that Respondent Belcher was found in violation of *Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12)*, in that he forged the signatures of his clients to Full Cancellations of Listing Forms in February of 2008.

Recommend: That Respondent Donald D. Belcher be ordered to pay an administrative fine of **One Thousand Dollars** (\$1,000.00) and complete an additional six (6) hours of Continuing Education (subject of which to be determined by the Commission staff), within six (6) months of receipt of the Final Administrative Order.

C-2007-060 – **Lane Harbison Davis (SA) – Oklahoma City** (Kisner): ***This case was presented before the Commission on August 13, 2008, but was ordered held in abeyance for a future agenda.*** On March 4, 2008, the Hearing Examiner reported that Respondent Davis was found in violation of *Title 59 O.S. §858-312, Subsection 15*, in that he was convicted in the State of Texas of the felony offense of "Improper Relationship between Educator and Student".

Recommend: That the Oklahoma Real Estate Sales Associate license of Respondent Lane H. Davis 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-2006-067 – Metro-Mark Realty Incorporated, Beverly Hamilton (BM) and Keith D. Eidson (SA) – Oklahoma City (Sokolosky): On May 30, 2008 the Hearing Examiner reported that Respondents Metro-Mark Realty Incorporated and Beverly Hamilton had not violated any provision of the Oklahoma Real Estate License Code or the Rules of the Commission, but that Respondent Keith D. Eidson was found in violation of *Title 59 O.S. §858-401*, in that he engaged in licensable activities from November 1, 2004 to June 23, 2006 without possessing an active real estate license.

Recommend: Dismiss case against Respondents Metro-Mark Realty Incorporated and Beverly Hamilton; and that Respondent Keith D. Eidson be formally reprimand and ordered to pay an administrative fine of **Seven Thousand Dollars** (\$7,000.00), of which **Three Thousand Five Hundred Dollars** (\$3,500.00) would be payable within six (6) months from the date of the Order and the remaining balance within twelve (12) months from the date of the order.

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.

U-2007-003 – Paramount Property Group LLC, David K. Peek (Unlicensed), Becky L. Peek (Unlicensed), Melissa Wheeler (Unlicensed), Robin Johnson (Unlicensed), Sunny Heusman (Unlicensed) and Angela Ayling (Unlicensed) – Oklahoma City (Sokolosky): On August 5, 2008 the Hearing Examiner reported that Respondents Robin Johnson, Sunny Heusman and Angela Ayling had not violated any provision of the Oklahoma Real Estate Code or the Rules of the Commission, but that Respondents Paramount Property Group LLC, David K. Peek, Becky L. Peek and Melissa Wheeler were found in violation of *Title 59 O.S. §858-401*, in that they listed, advertised, rented and leased multi-family units belonging to others during a period of time when Respondents were unlicensed.

Recommend: Dismiss case against Respondents Robin Johnson, Sunny Heusman and Angela Ayling; and that Respondents Paramount Property Group LLC, David K. Peek, Becky L. Peek and Melissa Wheeler be ordered to pay a civil penalty fine in the total sum of **Thirty Thousand Dollars** (\$30,000.00), to be assessed as follows:

Paramount Property Group LLC	\$9,900.00
David K. Peek	\$9,000.00
Becky L. Peek	\$6,900.00
Melissa Wheeler	\$4,200.00

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-2005-070 – **Larry L. Sells (BA)** – **Oklahoma City** (Kisner): On May 30, 2008, the Hearing Examiner reported that Respondent Larry L. Sells was found in violation of *Title 59 O.S. §858-312, Subsections 8, 9 and 15*, in that he was convicted of crimes of moral turpitude, they being Possession of Obscene Material Involving the Participation of a Minor Child Under the Age of Eighteen, and Distribution of Obscene Materials.

Recommend: That the Oklahoma Real Estate Broker License of Respondent Larry L. Sells be revoked.

III. COMPLAINTS/INVESTIGATIONS

A. **CASE EXAMINER REPORT / PRELIMINARY INVESTIGATION**

C-2008-024 – **Churchill Brown and Associates Incorporated, Sheila R. Cortese (BM) and Karen L. Blevins (SA)** – **Oklahoma City** (Kisner): No evidence was received to indicate any violation of the Oklahoma Real Estate License Code or the Rules of the Oklahoma Real Estate Commission by Respondents Churchill-Brown and Associates Incorporated, Sheila Cortese and Karen Blevins.

Recommend: Close case.

UC-2007-006 – **Lucas Wayne McGuire (SA), The Alliance Real Estate Group Incorporated, Regina M. Yager (BM), Judith Davis (BA), The Alliance Real Estate Group Incorporated (BO), and Carol Stephens (BB)** – **Edmond** (Holmes): Possible violations by Respondents The Alliance Real Estate Group Incorporated, Regina M. Yager, The Alliance Real Estate Group Incorporated (BO), and Carol Stephens:

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 Lucas W. McGuire in that he conducted real estate transactions under the name of The Alliance Real Estate Group Incorporated during the time his real estate license was inactive.

Title 59 O.S. §858-312, Subsections 7, 8, 9, 14 and 21 and Rules 605:10-17-4(6) and (12), in that they may have permitted Respondent Lucas W. McGuire to engage in licensable activities at a time when the license was inactive and accepted commissions from an unlicensed associate.

Possible violations by Respondent Lucas W. McGuire:

Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(6), in that he may have conducted real estate transactions which require an active license at a time when his real estate sales associate license was inactive.

Recommend: Set Formal Hearing.

UC-2008-003 – **Ora Williams, Waters Brothers Corporation, Brandon Tharp (BM) – Oklahoma City; Rhiannon Rose Wilkinson (SA) – Edmond** (Holmes): ***This case was presented before the Commission on September 10, 2008 and is being brought forward again for reinstatement of the Case Examiner's recommendation.***

Possible violations by Respondents Ora Williams and Rhiannon R. Wilkinson:

Title 59 O.S. §858-102(2), §858-301, §858-312, Subsections 4, 8, 9 and 20, and §858-401, in that they may have engaged in unlicensed activities, operated an unlicensed business and conducted real estate transactions which require an active license. No evidence was received to indicate any violation of the Oklahoma Real Estate License Code by Respondents Waters Brothers Corporation and Brandon Tharp.

Recommend: Set Formal Hearing on Respondents Ora Williams and Rhiannon R. Wilkinson; close case against Respondents Waters Brothers Corporation and Brandon Tharp.

C-2007-039– Janice Gail England (B) – Shady Point (Jones): No evidence was received to indicate any violation of the Oklahoma Real Estate License Code by Respondent Janice G. England.

Recommend: Close case.

C-2008-002 – Victoria Lynn Patrick (BM) – Ardmore (Jones): Possible violations by Respondent:

Title 59 O.S. §858-312, Subsections 8, 9, and 15 and Rule 605:10-17-4(9), in that she pled guilty to a charge of Contributing to the Delinquency of a Minor and was found guilty of public intoxication, and failed to respond to the Complaint in writing.

Recommend: Set Formal Hearing.

C-2008-004 – Nita Grimes and Associates Realty Incorporated, Juanita F. “Nita” Grimes Cook (BM), and Carole J. Lehman (SA) – Midwest City, Jequetta S. Combs (BP) – Oklahoma City, and Robert E. Hawkins (BP) – Newalla (Jones): Possible violations by Respondent Robert E. Hawkins:

Title 59 O.S. §858-312 Subsection 8 and Rule 605:10-13-1(a), in that he may have failed to accurately account for all deposits made in his trust account; *Rule 605:10-10-9(a)*, in that he may have failed to supervise Respondent Carole J. Lehman, and *Rule 605:10-9-1(d)*, in that he permitted Respondent Carole J. Lehman to have her own office.

Possible violations by Respondent Carole J. Lehman:

Title 59 O.S. §858-312 Subsections 8 and 9 and Rule 605:10-13-2, in that she may have failed to remit monies on deposit to Respondents Nita Grimes and Associates Realty Incorporated and Jequetta S. Combs as her Brokers and failed to inform them of her property management activities; *Title 59 O.S. §858-312 Subsection 6*, in that she may have failed to turn over the file of Respondent Combs; *Rule 605:10-9-1(d)*, in that she may have had her own office, and *Title 59 O.S. §858-312 Subsection 6 and Rule 605:10-13-2*, in that she may have failed to keep her Broker, Robert Hawkins, informed of deposits in to his trust account and that she did not promptly turn over rental deposits to her broker, Robert Hawkins.

No evidence was received to indicate any violation of the Oklahoma Real Estate License Code by Respondents Nita Grimes and Associates Realty Incorporated, Juanita F. “Nita” Grimes Cook and Jequetta S. Combs.

Recommend: Set Formal Hearing on Respondents Robert E. Hawkins and Carole J. Lehman; close case with a letter of caution on Respondents Nita Grimes and Associates Realty Incorporated, Juanita F. “Nita” Grimes Cook and Jequetta S. Combs

C-2008-009 – Noel J. Miskovsky (BM) – Yukon (Jones): Possible violations by Respondent:

1) *Title 59 O.S. §858-312, Subsections 2, 6, 8, 9, 15 and 22 and Rule 605:10-17-4(12)*, in that she accepted a fee, salary or commission in connection with a transaction without

providing written disclosure of such fee, salary or commission; increased the purchase price of a piece of real estate to cover the costs of the down payment; failed to turn over files to her broker, and hired an appraiser who charged more than the customary rate.

2) *Title 59 O.S. §858-312, Subsection 22, Rule 605:10-15-1, Rule 605:10-17-4(9) and Rule 605:10-17-5*, in that she made it appear that the buyer had paid \$13,000.00 at closing; failed to disclose her beneficial interest as the loan originator in writing to all parties; failed to disclose information and produce documents in her possession, and used employment information she knew to be no longer accurate to obtain a loan approval for a buyer as the mortgage broker.

Recommend: Set Formal Hearing.

C-2008-069 – **Lane Harbison Davis – Oklahoma City** (Jones): Possible violations by Respondent:

1) *Title 59 O.S. §858-315, Subsection 15*, in that he was convicted of misdemeanor on February 11, 2008 for Violation of a Protective Order.

2) *Title 59 O.S. §858-315, Subsection 1*, in that he made a materially false statement in the application for a license by failing to disclose the protective order violation.

Recommend: Set Formal Hearing.

B. INVESTIGATORS REPORT

C-2006-125 – **Preferred Real Estate Properties Incorporated, Norma Jean Coppedge (BM), Betty Lejeune (BA) and Jacqueta Kay Ayers (SA) – Oklahoma City** (Kueffler): The complainants alleged there were required repairs that were not completed prior to closing. They also stated they had requested receipts for the repairs that were not provided. Complainants also alleged Respondents Ayers exhibited rude behavior when the complainants went to her about their problems.

Based upon this investigation and other evidence received, there is no indication of any violation of the Oklahoma Real Estate License Code and Rules.

Recommend: Close case.

C-2008-026 – **David Larry Sacks (BP) – Dallas, Texas; David Larry Sacks (BO), Janette Marie Brown (BB) and Sheri Lynn Kohler (BA) – Broken Bow** (Kueffler): The complainant alleged that Respondent Kohler used his money to pay for marketing materials for properties she was trying to sell even after she left his brokerage. He also alleged Respondent Kohler moved several listings from his office to her new broker's office without his permission.

Based upon this investigation and other evidence received, there is no indication of any violation of the Oklahoma Real Estate License Code and Rules.

Recommend: Close case.

C-2008-051 – **Realty Depot Incorporated, Blaine Spangler (BM) and Rebecca R. Ritchie (SA), Oklahoma City** (Danley): Complainant alleged Respondent Ritchie circumvented their offer being accepted by the seller HomeEQ; a REO Company, in that she was unethical, improper and unprofessional.

Based upon this investigation and other evidence received, there is no indication of any violation of the Oklahoma Real Estate License Code and Rules.

Recommend: Close case.

C-2008-058 – ABWS Tulsa Incorporated, Susan J. Beach (BM) and Sean David Clay (SA) – Tulsa (Danley): The complainant alleged that Respondent Clay was responsible for stealing a hot tub left in the complainant's property after the home was foreclosed. Based upon this investigation and other evidence received, there is no indication of any violation of the Oklahoma Real Estate License Code and Rules.

Recommend: Close case.

C-2008-060 – Welcome Home Management Services LLC, Andrea Nicole Frymire (BM) and Katrina Renee Raether (SA) – Oklahoma City (Danley): The complainant alleged that the respondents were responsible for allowing her dog to escape from the backyard of a leased home that was managed by the respondents. A lawn service company contracted by the respondents performed yard maintenance on the property, after which the complainant's dog went missing. Based upon this investigation and other evidence received, there is no indication of any violation of the Oklahoma Real Estate License Code and Rules.

Recommend: Close case.

IV. FINANCIAL AND FISCAL

- 1) Final Financial report for FY 2008
- 2) Financial report as of September FY 2009
- 3) Budget Request and Strategic Planning for FY 2009
- 4) 2009 Sunset Review Survey

V. EDUCATION

Report from the Education and Licensing Program Director

VI. INDUSTRY UPDATES

- 1) Report from Rebate Task Force
- 2) Report from Broker Relationships Act Task Force
 - a) Approval of request from Oklahoma Association of Realtors (OAR) to appoint additional members to task force.
- 3) Report from Contract Committee
- 4) Report from Errors and Omissions (E&O) Task Force
- 5) Report from Real Estate Research Center Task Force

VII. GENERAL BUSINESS

- 1) Adoption of Emergency Rules to become effective January 1, 2009:

The Oklahoma Real Estate Commission has determined that an imminent peril to the preservation of the public health, safety, welfare or other compelling extraordinary circumstances exists which necessitates the promulgation of emergency rules to:

- a) **Amend the rule currently mandating that all applicant testing will be conducted exclusively in Oklahoma City;**

- b) Amend wording regarding accommodations for applicants who qualify under the Americans with Disabilities Act;**
- c) Amend wording regarding application and examination result validity, and**
- d) Amend Instructor application fee and course content examination.**

2) Consideration of items to be discussed at next Commission Meeting

VIII. NEW BUSINESS

Any new business not known about or which could not have been reasonably foreseen prior to the time of posting of the agenda

IX. ACTION ON NEXT MEETING DATE

- 1) Cancellation of December 10, 2008 meeting
- 2) Next meeting scheduled for January 14, 2009

X. ADJOURNMENT

TITLE 605. OKLAHOMA REAL ESTATE COMMISSION CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

Emergency Rules to be Effective January 1, 2009

SUBCHAPTER 3. EDUCATION AN EXAMINATION REQUIREMENTS

605:10-3-5. Examinations

(a) **Applicant must appear in person.** When an application for examination has been submitted to the Commission, the applicant shall be required to appear in person, at a time and place to be designated by the Commission, and answer questions based on the required subject matter as prescribed elsewhere in the rules of this Chapter. ~~Unless otherwise directed by the Commission, all examinations will be conducted in Oklahoma City.~~ On and after August 1, 2001, each broker examination fee shall be Seventy-five Dollars (\$75.00) and each provisional sales associate/sales associate examination fee shall be Sixty Dollars (\$60.00).

(b) ~~Computer and written examinations~~ **Special Accommodations.** ~~In the event a computer is available and in working order, the Commission shall administer the examination by computer. If an applicant requests to take the examination in a written form and a computer is available, a charge of Twenty Dollars (\$20.00) in addition to the regular examination fee will be assessed the applicant. In the event a written request is made by a handicapped individual, the Commission may waive the fee. In cases where special accommodations are necessary under the requirements of the Americans with Disabilities Act, applicants must notify the examination supplier in advance by submitting a written request, on a form prescribed by the Commission, describing the disability and necessary accommodations.~~

(c) **Failure to pass examination.** If an applicant fails to pass the examination prescribed by the Commission, the Commission may permit subsequent examinations upon receipt of a new examination fee for each examination to be attempted.

(d) **Applicant request to view failed examination.** ~~An applicant who fails the examination may, within thirty (30) days of the date of the examination, personally visit the Commission office and view his or her has the option of reviewing their missed questions at the end of their examination. If, as a result of such viewing, the applicant is of the opinion incorrect grading was the cause for his or her receiving a failing grade, he or she may within ten (10) days request a review by the Commission of his or her examination. The purpose of such a review by the Commission shall be to determine whether or not such examination was correctly graded. An applicant may challenge the validity of any question(s) they identify as incorrectly graded. A challenge to a question that pertains to the Oklahoma law portion of the examination will be sent to the Commission by the examination supplier. A challenge to a question that pertains to the national portion will fall under the review policy of the examination supplier. In either case, both the examination supplier and/or the Commission shall have five (5) business days in which to review and issue a response to the applicant. Applicants will be allowed up to one (1) hour to review their exam and the applicant will not be allowed to test on the same day they review a failed examination. No notes, pencils, or electronic devices will be allowed during review nor will they be allowed to leave the examination area with the examination questions.~~

(e) **Application valid for one year.** ~~The original examination application shall be valid for one (1) year from date of filing. A request to write an examination submitted more than one (1) year from the most recent original application filing must be accompanied by a new original application form. After such date, an applicant must complete a new original application form.~~

(f) **Passing percentile of examination.** A score of seventy-five percent (75%) or more shall be considered a passing grade on the broker or provisional sales associate/sales associate examination.

(g) **Validity period of examination results.**

~~(1) **Approved or incomplete application.** The results of an examination wherein an applicant scored a passing grade shall be valid for ninety (90) days one (1) year from the date of such examination.~~

~~(2) **Unapproved application.** The results of an examination wherein an applicant scored a passing grade shall be valid for ninety (90) days from the date the application has received final approval but shall not be valid for more than one year from the date of examination.~~

~~(h) **Extension of examination grade validity period.** An applicant may request in writing for an extension of the validity period, showing cause why such period should be extended. At the discretion of the Commission, such validity period may be extended.~~

~~(i) **(h) Disciplinary examination fee.** A fee shall be charged for an examination which is directed by Order of the Commission as disciplinary action.~~

~~(j) **Broker applicants.** A broker applicant who completes an entire broker examination and who is unsuccessful, may, if he or she retakes the examination within thirty (30) days, elect not to complete the written closing statement portion again, but be given his or her first written closing statement and re-enter his or her multiple choice closing statement answers.~~

SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

605:10-5-1. Approval of precense course offerings

(a) **Course approval.** Any person or entity seeking to conduct an approved course of study shall make application and submit documents, statements and forms as may reasonably be required by the Commission. The request shall include the following:

- (1) Completed course application.
- (2) Application fee of One Hundred Twenty-five Dollars (\$125.00) for each course.
- (3) An approved course syllabus encompassing the contents enumerated in 605:10-3-1 and divided by instructional periods, the name, author and publisher of the primary textbook, or a statement stating the entity will use the OREC syllabus and other items as may be required by the Commission.

(b) **Course offering requirements.**

- (1) An entity not conducting an applicable approved course within any thirty-six (36) month period shall automatically be removed from approved status. In such event, the person and/or entity must re-apply as an original applicant.
- (2) If a course of study is to be conducted in the name of a corporation, the application shall include the names and addresses of all directors and officers.
- (3) An approved entity shall immediately report any changes in information in regards to the application previously filed with the Commission.

(c) **Denied applications.** No portion of the fees enumerated in this Section are refundable. If an instructor, entity or course application is not approved, the applicant may appeal the decision by filing a written request for a hearing before the Commission. The hearing procedure shall be that as outlined in 605:10-1-3 titled "Appeal of administrative decisions; procedures."

(d) **Advertising course offerings.** No person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission. Such person or entity may indicate that a course of study has been approved by the Commission.

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a Twenty-Five Dollar (\$25.00) ~~One Hundred Dollar (\$100.00)~~ application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

- (1) A bachelor's degree with a major in real estate from an accredited college or university.
- (2) A bachelor's degree from an accredited college or university, and at least two (2) years active experience within the previous ten (10) years as a real estate broker.
- (3) A real estate broker licensed in Oklahoma with a minimum of five (5) years active experience within the previous ten (10) years as a real estate broker and proof of high school education or its GED equivalent.
- (4) An individual determined by the Commission to possess a combination of education and/or active broker experience in real estate or real estate related fields which constitutes an equivalent ~~to~~ of one or more of the qualifications in paragraphs (1), (2), or (3) of this subsection.

(f) **Course content examination.** Final approval will be considered after the instructor applicant has paid the

appropriate examination fee and successfully completed an applicable Commission administered course content examination with a passing score of 80% or more. ~~An instructor shall be allowed to successfully complete the applicable examination one time without charge; thereafter, the applicable examination fee shall be charged for each examination.~~ If an instructor applicant fails to pass the examination prescribed by the Commission then the Commission may permit subsequent examinations upon receipt of the applicable examination fee for each examination to be attempted. If an instructor applicant has successfully taken an applicable examination with a passing score of 80% or more within thirty (30) days of filing an instructor application, such passing score may be utilized to meet the applicable examination requirement in this section. If however, the instructor applicant does not obtain approval within 90 days of filing an instructor application, due to no fault on the part of the Commission, the instructor will be required to take the applicable examination again.

(g) **Instructor renewal requirements.**

(1) In order to maintain approved status, an instructor must comply with the following:

(A) Attend a Commission directed Instructor Renewal Course every twelve (12) months. Instructors approved solely for distance education offerings must complete three (3) hours every twelve (12) months of instructor training as accepted by the Commission and sign a statement that changes to current law and rules have been reviewed and that the instructor has made applicable amendments to the course material.

(B) Furnish evidence that the instructor has taught a Commission approved prelicense course, or any other real estate related course(s) the Commission determines to be equivalent, within a required thirty-six (36) month period.

(2) Any instructor not meeting the requirements of this subsection will be required to re-apply as an original instructor applicant.

(h) **Guest instructors.** Guest instructors may be utilized for in-class instruction provided an approved instructor is also present during presentations. Total guest instruction and lectures shall not consume more than thirty percent (30%) of the total course time.

(i) **Instructor and entity requirements.**

(1) **Instructor must be present.** An approved instructor must be present in the same room during all in-class course instruction for students to receive credit toward course completion.

(2) **Retention of records.** An instructor/entity shall maintain ~~a record of~~ enrollment records and roll sheets which include number of hours attempted by each student.

(3) **Course completion certificate.** Each individual successfully completing a course of study approved by the Commission shall be furnished a certificate prescribed or approved by the Commission certifying completion. The Commission shall accept from a college or university a certified transcript or a course completion certificate as prescribed by the Commission.

(4) **Commission authorized to audit and inspect records.** A duly authorized designee of the Commission may audit any offering and/or inspect the records of the entity at any time during its presentation or during reasonable office hours or the entity may be required to provide the records to the Commission.

(5) **Clock hours and breaks.** Not more than one clock hour may be registered within any one sixty (60) minute period and no more than ten (10) minutes of each hour shall be utilized for breaks.

(6) **Class size limited.** Instructor ratio to students shall not exceed sixty (60).

(j) **Facility approval requirements.** Before an approved course offering can be presented at a location, the person or group presenting the course must seek approval of the facility to be used for presentation of the course. A Commission approved application must be completed and accompanied by a Seventy-five Dollar (\$75.00) application fee.

(1) The application fee may be waived if the facility request for approval has been approved for use as a classroom by the State Department of Education, State Regents of Higher Education, or State Vocational and Technical Education.

(2) The application fee may be waived if an entity is requesting to utilize a facility that is currently approved by the Commission as an active facility site.

(3) The Commission shall act on a facility application within thirty (30) days of receipt of application.

(k) **Disciplinary action.** An approved course of study, director, instructor and/or facility may be withdrawn or disciplined as outlined in Title 59, O.S., Section 858-208, paragraph 6 either on a complaint filed by an interested

person or the Commission's own motion, for the following reasons, but only after a hearing before the Commission and/or a Hearing Examiner appointed by the Commission:

- (1) In the event the real estate license of a director is suspended or revoked, the course of study shall automatically be revoked.
- (2) In the event the real estate license of an instructor is suspended or revoked.
- (3) Failure to comply with any portion of the Code or the rules of this Chapter.
- (4) Failure of an approved entity to maintain a 50% or better pass/fail ratio on the Commission examinations.
- (5) Falsification of records and/or application(s) filed with the Commission.
- (6) False and/or misleading advertisement.
- (7) Any other improper conduct or activity of the director, instructor, or entity as may be determined by the Commission to be unacceptable.