

Minutes  
Regular meeting/hearings  
South Carolina Real Estate Commission  
Synergy Business Park, Kingstree Building  
110 Centerview Drive, Room 108  
May 16, 2007

Members attending: Jay Keenan, Chair; Manning Biggers, Vice Chair; Evelyn Young, Secretary; Tony Cox; Buccie Harley; Robert Heos; and Scott Moseley  
Members absent: Steve Sloop (Excused)

Staff attending: Robert Selman, LLR Assistant Deputy Director; Jay Pitts; Administrator; Sharon Dantzer\*, LLR Counsel; James Saxon, LLR Counsel; Sheridan Spoon; LLR Counsel; Rick Wilson; LLR Counsel\*; Joe Harmon, LLR OIE, Ann Parris, Administrative Assistant; and Beau Tiller, Education Manager

\*Ms. Dantzer sat in as advice counsel until 10:25 am at which time Mr. Wilson joined the meeting.

Others: Linda Bennett, Dona Cantrell, Shannon Greer, Kenneth H. Griffith and Shane Rowe

Chairman Keenan called the meeting to order at 10:10 am. He stated for the record the following South Carolina Freedom of Information statement. Public notice of this meeting was properly posted at the Real Estate Commission office, Synergy Business Park, Kingstree Building, Columbia, South Carolina, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. A quorum was present at all times.

Board members and staff introduced themselves.

Minutes January 17, 2007

Mr. Biggers moved to approve the minutes of January 17, 2007, as written. Mr. Harley seconded the motion and it unanimously carried.

Member Absense Excused

Steve Sloop was granted an excused absence.

Management Update, For Information – Jay Pitts, Administrator

Mr. Pitts briefly reviewed online renewal procedures that are in place for this renewal period. Approximately 22,000 licensees were notified by mail which instructed and encouraged online renewal. Licensees who do not wish to renew online can request a paper form.

Task Force – Residential Property Disclosure Statement

At the request of the South Carolina Association of REALTORS, a Task Force to review the Residential Property Disclosure Statement for possible changes has been formed.

Committee members include Tony Cox, Beau Tiller, Andy Walker, Byron King, Charlie Wyatt, Jeanine Kees, and Peggy Gainey. The Committee has held one meeting. A draft for the Board's review should be available soon.

Retirement Announcement - Rick Wilson, LLR, Office of General Counsel

Mr. Pitts announced that Rick Wilson, LLR, Office of General Counsel, and long time advice counsel for the Commission would be retiring in June. Chairman Keenan on behalf of the Board and staff expressed appreciation for the excellent job that Mr. Wilson has done and wished him well. Mr. Wilson thanked the Chairman and said it had been a privilege

working with such professional Board members who are always well prepared to do their job and an extremely capable staff.

#### Procedures – Hearing Panel or Hearing Officer

Mr. Pitts discussed the possibility of scheduling an extra meeting July 9 (hearings only) to hear disciplinary cases before the regularly scheduled meeting/hearings on July 18.

Mr. Wilson explained a provision in the Engine Bill which would allow for the Board to appoint a hearing officer or a panel. He outlined this type option and how it works.

- 1) The hearing is taped verbatim by a court reporter which generates a transcript
- 2) The hearing officer make a written recommendation to the Board
- 3) Board considers it in sort of an appellate capacity. Board members receive
- 4) The record ahead of time and both sides make their arguments in support of or opposition to the facts and conclusions that are recommended by the hearing officer. No new evidence can be introduced to the Board during the hearing (usually lasts about 30 minutes)
- 5) Board makes the final decision

The Board agreed that it was their preference to hear the cases and not use a panel or a hearing officer. Members were polled and it was indicated there would be a quorum for July 9 as well as a quorum for the regular meeting/hearings scheduled for July 18. Board members will be notified by email as to whether the July 9 date is needed.

#### ARELLO Mid-year Conference Report, Banff, Canada, April 2007– Manning Biggers

Mr. Biggers distributed a packet of information on topics discussed at the meeting. He included a round table discussion dealing with mortgage fraud throughout the nation. One of the statistics showed that South Carolina was in the top 26% of states that had problems in this area. Discussion on possible ways the Commission could assist with improving the situation in South Carolina. Mr. Pitts said the Appraisers Board has been very proactive in this area through participation in seminars.

#### Old Business-Time Share Ad Hoc Committee Report – Tony Cox

Mr. Cox reported that an ad-hoc committee has been formed and include Jay Pitts, Administrator; Tony Cox; Commission member; Buccie Harley, Commission member; Ken Kitts, Staff; Mike Cousins representing the time share and real estate industry; and Jason Gamble, attorney with American Resort Developers Association (ARDA). There have been two conference call meetings (January and February). The committee learned that most of the complaints received are isolated to one or two companies and are concerned with the deceptive methods of sales people at the time of sale. The complaints are most often dealing with the rental value, availability of a unit, and RCI points consumers are promised. These complaints are usually filed after the five-day rescission period has expired. As a matter of information, Mr. Cox said legislation has been introduced to increase the five-day rescission period to ten days and is being closely monitored by staff. Mr. Cox has spoken with the legislator who introduced that legislation, and the ARDA counsel indicated he will speak to him as well.

#### Consensus of Committee

Mr. Cox said the consensus of the committee was to recommend that the Board look at licensing sales people again with specific pre and post licensing education requirements just as the traditional licensees are required to have. He said that he thought staff was supportive of this if it was done in a form that would be useful. Several topics dealing with the time

share problems were discussed. Topics included the need for a fail safe method of communication in receipt of notice to the developer, a dedicated hot line or something that could be enacted that would protect consumers, ARDA indicated they would initiate their own investigation, the value of increasing the rescission period, large amount of media attention and how it is has contributed to the problem. There was some discussion on whether or not the Real Estate Commission should be regulating the time share industry or should it be under the direction of another state agency.

Mr. Pitts discussed how the Commission should react or act and the importance of not reacting too quickly and making a bad decision. He said he was not sure if the recommendation should go forward at this time. Mr. Cox said that would be up to the Commission.

Chairman Keenan stated that this would not be resolved today and asked if there was a motion to accept Mr. Cox's report as presented. Mr. Cox said he would move that his presentation be accepted as written and requested that staff investigate what other states are doing, research which jurisdictions require licensing, and how they are handling this issue.

Mike Cockrell who was present at the meeting as an interested party to an upcoming application hearing asked to make a statement. He related his personal experience involving high pressure tactics used when he bought a time share.

Chairman Keenan stated this issue would be kept on the Commission's agenda and staff would continue to monitor it until there is a resolution.

Mr. Cox stated there have been no issues or complaints dealing with attorney preference in an authorized practice of law statute so there is no recommendation to change that.

#### New Business - Reciprocal

South Carolina has been monitoring changes that North Carolina has made in their license law classifications. They have removed the sales classification and have gone to broker status (which is not a broker-in-charge). That change created an issue because South Carolina requires three years experience to move from a sales license to a broker's license; therefore, when a North Carolina broker licensee applies for a reciprocal broker's license, if that individual does not meet the three years experience requirement, they are issued a sales license. In North Carolina, the license is a provisional broker's license. The licensee has to complete an additional 90 hours to become a permanent broker, and twelve hours of continuing education to become a broker-in-charge.

Mr. Biggers reported that North Carolina is following the Colorado model which is a single license status. He and Mr. Pitts discussed negotiations that have been going on with North Carolina in trying to find the right solution. He stated he and Mr. Pitts take the position that the answer may be to discontinue reciprocal agreements and require that applicants take the state portion of the examination.

Chairman Keenan stated the Board would rely on staff to continue to monitor this problem and bring a recommendation to the Commission.

Recess 11:10 am

The Chairman reconvened the meeting at 11:20 am.

License Application Appearances

Jenny L. Cockrell

11:20 am

Chairman Keenan stated that proceedings were being recorded, that all witnesses must be sworn before they testify, and that all remarks should be directed to the Chairman.

Jenny L. Cockrell appeared before the Board without legal counsel to request that she be allowed to sit for the sales examination. She did not call any witnesses.

Following her presentation, Chairman Keenan stated the Board would take the matter under advisement and called for a motion to go into executive session.

Executive Session

Motion: Mr. Heos moved to go into executive session. Ms. Young seconded the motion. Motion unanimously carried.

Return to Public Session

11:40 am

Motion: Ms. Young moved to come out of executive session, and Mr. Moseley seconded the motion. Motion unanimously carried.

Chairman Keenan stated that while the Board was in executive session, there were no votes taken and no determination made on the disposition of the case. He asked if there was a motion any Board member cared to make.

Motion: Mr. Heos moved to allow Ms. Cockrell to sit for the sales examination and upon passing the examination; she must comply with all the current real estate license law which includes that she must have a broker to employ her. The motion was seconded by Mr. Harley and unanimously carried. Mr. Wilson stated he would draw up an Agreement to include above conditions for Ms. Cockrell signature and Board Chairman's signature.

Billy Jack Fulbright

11:45 am

Chairman Keenan stated that proceedings were being recorded; all witnesses must be sworn before they testify, and all remarks should be directed to the Chairman.

Billy Jack Fulbright appeared before the Board without legal counsel to request that he be allowed to sit for the sales examination. Dona Cantrell, broker-in-charge, licensed since 1980 in Easley, South Carolina, testified. She was sworn in by Mr. Wilson. Following Mr. Fulbright's presentation, Chairman Keenan stated the Board would take the matter under advisement and called for a motion to go into executive session.

Executive Session

Motion: Mr. Biggers moved to go into executive session. Ms. Heos seconded the motion. Motion unanimously carried.

Return to Public Session

12 Noon

Motion: Mr. Moseley moved to come out of executive session, and Ms. Heos seconded the motion. Motion unanimously carried.

Chairman Keenan stated that while the Board was in executive session, there were no votes taken and no determination made on the disposition of the case. He asked if there was a motion any Board member cared to make.

Motion: Mr. Biggers moved that Billy Jack Fulbright be given the opportunity to sit for the sales examination and upon passing the examination, be licensed and that all times he abide by all the rules and regulations of the state law. The motion was seconded by Mr. Cox and unanimously carried. Motion carried unanimously.

Geoffrey Thomas Hawk 12 Noon  
Chairman Keenan stated that the proceedings were being recorded; all witnesses must be sworn before they testify, and all remarks should be directed to the Chairman.

Geoffrey Thomas Hawk appeared before the Board without legal counsel to request that he be allowed to receive a South Carolina reciprocal license. He had one witness. Ken Griffith, prison volunteer minister, who was sworn in by Mr. Wilson. Following Mr. Hawk's presentation, Chairman Keenan stated the Board would take the matter under advisement and called for a motion to go into executive session.

Executive Session 12:15 pm  
Motion: Mr. Biggers moved to go into executive session. Ms. Young seconded the motion. Motion unanimously carried.

Return to Public Session 12:30 pm  
Motion: Mr. Moseley moved to come out of executive session, and Ms. Heos seconded the motion. Motion unanimously carried.

Chairman Keenan stated that while the Board was in executive session, there were no votes taken and no determination made on the disposition of the case. He asked if there was a motion any Board member cared to make.

Motion: Mr. Cox moved that Geoffrey Thomas Hawk be allowed to receive a reciprocal sales license. The motion was seconded by Mr. Harley and unanimously carried.

Twenty minute break called by the Chairman. Chairman Keenan reconvened the meeting at 12:50 pm to hear the last application hearing.

Freddie Rowe 12:50 pm  
Chairman Keenan stated that the proceedings were being recorded; all witnesses must be sworn before they testify, and all remarks should be directed to the Chairman.

Freddie Rowe appeared before the Board without legal counsel to request that he be allowed to sit for the sales examination. Two witnesses: Shannon Greer, fiancé and Shane Rowe, mother. Following Mr. Rowe's presentation, Chairman Keenan stated the Board would take the matter under advisement and called for a motion to go into executive session.

Executive Session 1:15 pm  
Motion: Mr. Heos moved to go into executive session. Mr. Biggers seconded the motion. Motion unanimously carried.

Return to Public Session

Motion: Mr. Cox moved to come out of executive session, and Mr. Harley seconded the motion. Motion unanimously carried.

Chairman Keenan stated that while the Board was in executive session, there were no votes taken and no determination made on the disposition of the case. He asked if there was a motion any Board member cared to make.

Motion: Ms. Young moved that Freddie Rowe be allowed to pursue his ambition to become a real estate agent by applying to take the real estate course, passing the real estate exam and obtaining the necessary broker willing to employ Mr. Rowe. Mr. Cox seconded the motion and it carried.

Chairman Keenan reiterated to Mr. Rowe that in order to obtain a real estate license, he must complete the real estate course, pass the real estate examination and obtain a broker willing to employ him and have that broker write a letter to Jay Pitts, Administrator, stating the he/she would be willing to employ Mr. Rowe.

Mr. Wilson said he could prepare an Agreement for Mr. Rowe's signature that he could submit to Vocational Rehabilitation for possible financial assistance with the cost of schooling and examination expenses.

There being no further business, Mr. Biggers moved to adjourn the meeting. Mr. Heos seconded the motion and it carried.

Board reconvened at 1:50 pm to hear a disciplinary matter concerning Larry A. Yates.

Board Action: Six-month suspension of license from the date of the Order and Mr. Yates is required to take two classes, one on the law of agency and one on contracts, and fine of \$2,500.

Hearing was adjourned on motion of Mr. Cox at 4:50 pm.

Submitted,

Evelyn K. Young  
Secretary

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