

MINUTES

South Carolina Real Estate Commission

Wednesday, November 16, 2016, 10:00am

Synergy Business Park, Kingstree Building, Conference Room 105

110 Centerview Drive, Columbia, South Carolina 29210

Meeting Called to Order:

Vice Chairman O'Kelley called the meeting of the South Carolina Real Estate Commission to order at 10:00 a.m. Board members participating in this meeting included:

David Crigler – Chair – 4th Congressional District
G. Hamlin O'Kelley – Vice Chair - Public Member
Candace Pratt – 1st Congressional District
David C. Lockwood, III, 2nd Congressional District
Andy Lee – 3rd Congressional District
John Rinehart – 5th Congressional District
Janelle Mitchell – 6th Congressional District
Tony Cox – 7th Congressional District
Wayne Poplin – At-Large Member
Johnathan Stackhouse – Public Member

Staff members participating during the meeting included Roderick Atkinson, Board Administrator; Wanda Cooke, Administrative Assistant; Georgia Lewis, Office of Advice Counsel; Sharon Cook, Office of Investigations and Enforcement; Roland Alston, Office of Disciplinary Counsel.

Public Notice:

Vice Chairman O'Kelley announced that public notice of this meeting was properly posted at the S.C. Real Estate Commission Office, Synergy Business Park, Kingstree Building, 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.

Pledge of Allegiance:

The Pledge of Allegiance was recited by all present.

Invocation:

Invocation was offered by Commissioner Lockwood.

Introduction of Board Members and Staff

Ms. Janelle Mitchell was introduced as the newest member of the Commission. Ms. Mitchell lives in Orangeburg, SC, and represents the 6th Congressional District.

Approval of Agenda:

MOTION:

Mr. Rinehart made a motion to approve the agenda. Mr. Poplin seconded the motion, which carried unanimously.

Approval of the Meeting Minutes from October 19, 2016

MOTION:

Ms. Pratt made a motion to approve the minutes of the October 19, 2016, meeting. Mr. Poplin seconded the motion, which carried unanimously.

Administrator's Remarks:

Rod Atkinson

1. Licensure Update as of November 9, 2016

• Broker	5191
• Broker In Charge	7556
• Property Manager	1487
• Property Manager In Charge	1255
• Salesman	21384
• Salesman (Provisional)	2278
TOTAL ACTIVE	39,151
• Inactive Broker	1650
• Inactive Property Manager	578
• Inactive Salesman	5750
TOTAL INACTIVE	7,978

**TOTAL CURRENT LICENSES
AS OF 11/9/16 47,129**

2. Budget - The board reviewed the budget reports for October, 2016.

3. Investigations and Enforcement

Sharon Cook presented the Commission with an overview of the opened and closed cases from January 1, 2016 – 2016, as well as the same time frame for the previous year.

4. IRC Report - The Commission reviewed the IRC report from November 7, 2016.

MOTION:

Mr. Poplin made the motion to approve the *Dismissal* portion of the IRC report from November 7, 2016. Ms. Pratt seconded the motion, which carried unanimously.

MOTION:

Mr. Stackhouse made the motion to approve the *Formal Complaint* portion of the IRC report from November 7, 2016. Mr. Lee seconded the motion, which carried unanimously.

DISCIPLINARY HEARINGS

Veronica O'Neill

The Commission held a Disciplinary Hearing regarding Veronica O'Neill. Ms. O'Neill was not present and was not represented by legal counsel. Rowland Alston, Office of Disciplinary Counsel, represented the State, and presented the facts of the case. Discussion ensued.

MOTION:

Mr. Rinehart made a motion to revoke the license of Ms. O'Neill. Mr. Lee seconded the motion. Discuss ensued.

MOTION:

Mr. Lockwood made a substitute motion to revoke the license of Ms. O'Neill based on the fact that the State has met the burden of proof that Ms. O'Neill has violated the following statutes: 40-57-145-(A) (1); 40-57-145 (A) (2); 40-57-145 (A) (3); 40-57-145 (A) (4); 40-57-145 (A) (5); 40-57-145 (A) (8); 40-57-145 (A) (9); 40-57-145 (10); 40-57-145 (A) (24) and 40-1-110-(1) (F). Mr. Lee seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Melissa Beach

The Commission held a Disciplinary Hearing regarding Melissa Beach. Ms. Beach was present and waived her right to legal counsel. Rowland Alston, Office of Disciplinary Counsel, represented the State, and presented the Memorandum of Agreement signed by the respondent. Discussion ensued.

MOTION:

Mr. Lee made a motion that the State has not met the burden of proof that Ms. Beach violated S.C. Code Ann 40-57-145- (A) (10); the State has met the burden of proof that Ms. Beach violated S.C. Code Ann. 40-57-135 (F), and a Letter of Caution be issued.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Dale Clift and Christopher Byrd

The Commission held a simultaneous Disciplinary Hearing regarding Dale Clift and Christopher Byrd. Both respondents were present and waived their right to legal counsel. Rowland Alston, Office of Disciplinary Counsel, represented the State, and presented Memorandums of Agreement signed by Mr. Clift and Mr. Byrd. Discussion ensued.

MOTION:

Mr. Rinehart made a motion to enter Executive Session to receive legal advice. Mr. Lee seconded the motion, which carried unanimously.

MOTION:

Mr. Rinehart made a motion to enter Open Session. Mr. Lockwood seconded the motion, which carried unanimously.

MOTION:

Ms. Pratt made a motion that the State has met the burden of proof that Mr. Clift violated S.C. Code Ann. 40-57-135 (A) (1) and S.C. Code Ann. 40-57-135 (A) (3); to accept the signed Memorandum of Agreement, and to require Mr. Clift to complete the new Broker in Charge class after January 1, 2017, and within six (6) months from the date of the Order. This class may not be used for continuing education credit.

Also included in this motion was the determination that that the State has met the burden of proof that Mr. Byrd violated S.C. Code Ann. 40-57-135 (A) (4); to accept the signed Memorandum of Agreement, and to require Mr. Byrd to complete the new Broker in Charge class after January 1, 2017 and within six (6) months from the date of the Order. This class may not be used for continuing education credit.

Mr. Rinehart seconded the motion, which was carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Chairman Crigler joined the meeting.

Douglas Henjes

The Commission held a Disciplinary Hearing regarding Douglas Henjes. Mr. Henjes appeared before the Commission to present testimony and was not represented by legal counsel. Rowland Alston, Office of Disciplinary Counsel, represented the State, and presented a Memorandum of Agreement signed by the respondent. Discussion ensued.

MOTION:

Mr. Rinehart made a motion to enter Executive Session to receive legal advice. Mr. Lee seconded the motion, which carried unanimously.

MOTION:

Mr. Rinehart made a motion to enter Open Session. Mr. Lockwood seconded the motion, which carried unanimously.

MOTION:

Mr. O'Kelley made a motion that the State has not met the burden of proof that Mr. Henjes violated S.C. Code Ann. 40-57-135 (A) (4) or S.C. Code Ann. 40-1-110 (1) (f); the State has met the burden of proof that Mr. Henjes violated S.C. Code Ann. 40-57-135-(D), and that a Letter of Caution be issued.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Queen Linen

The Commission held a Disciplinary Hearing regarding Queen Linen. Ms. Linen appeared before the Commission to present testimony and was not represented by legal counsel. Rowland Alston, Office of Disciplinary Counsel, represented the State, and presented a Memorandum of Agreement signed by the respondent. Discussion ensued.

MOTION:

Mr. Rinehart made a motion to enter Executive Session to receive legal advice. Ms. Pratt seconded the motion, which carried unanimously.

MOTION:

Mr. Rinehart made a motion to enter Open Session. Mr. Poplin seconded the motion, which carried unanimously.

MOTION:

Mr. Lockwood made a motion that the State has met the burden of proof that Ms. Linen violated S.C. Code Ann. 40-1-110 (1) (f); S.C. Code Ann. 40-57-145-(A) (20); S.C. Code Ann. 40-57-145-(A) (21), and that Ms. Linen's license be revoked. Mr. Rinehart seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Timothy Rash

The Commission held a Disciplinary Hearing regarding Timothy Rash. Mr. Rash was present and was represented by David Haller, legal counsel. Erin Baldwin, Office of Disciplinary Counsel, represented the State, and presented the Stipulations of Fact in this case. Discussion ensued.

MOTION:

Mr. Rinehart made a motion that Mr. Rash did not violate S.C. Code Ann. 40-57-135 (B) (5) or S.C. Code Ann. 40-1-110-(1) (f), and that the Formal Complaint be dismissed. Mr. Lockwood seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Kevin Smith

Mr. Smith signed a Voluntary Relinquishment prior to the meeting, therefore the Commission did not hold a Disciplinary Hearing in this matter.

Mr. O'Kelley left the meeting at 3:30 p.m., however, a quorum was maintained.

Mr. Cox joined the meeting via teleconference.

PUBLIC COMMENTS

Representatives of SC Realtors addressed the Commission to discuss the topic of the recent arrest of a Broker in Charge in the upstate, charged with kidnapping and murder. They asked for support of the Commission in filing new legislation requiring fingerprints for applicants. and assured them that SC Realtors are committed to protecting the citizens of South Carolina.

UNFINISHED BUSINESS

- 1) The word “subagency” has been omitted from the latest version of the Real Estate License Law. Does this mean “subagency” is no longer a definition? Nick Kremydas, SC Realtors, indicated that this was inadvertently removed from the latest version of the license law, and steps will be taken to correct this. Discussion ensued.

MOTION:

Mr. Lee made a motion that the Commission recognizes “subagency” as a definition in S.C. Code Ann. 40-57-350 (A). Mr. Poplin seconded the motion, which carried unanimously.

- 2) Transaction Broker/Customer Relationships was discussed in great detail.

MOTION:

Mr. Rinehart made a motion that the description of customer confidentiality from the South Carolina Disclosure of Brokerage Relationships brochure be the interpretation that Commission uses. In regards to the limited confidentiality duties of a transaction broker, a transaction broker agreement must be executed to allow a customer to receive limited confidentiality from the brokerage. Mr. Lee seconded the motion, which carried unanimously.

- 3) CE Exemption Interpretation - Mr. Atkinson noted an error in the 2017 License Law under S.C. Code 40-57-340 (B) (1), concerning the biennial continuing education exemption when completing the post license course, since this course will no longer exist. Discussion ensued.

MOTION:

Mr. Stackhouse made a motion that since this course no longer exists that this exemption is no longer applicable. Mr. Poplin seconded the motion, which carried unanimously.

- 4) PMIC Qualifying Course - The Commission discussed whether or not a Property Manager needs to obtain a license prior to applying as Property Manager in Charge, or if they can obtain their education first and then go immediately to being licensed as a Property Manager in Charge. It was determined that the applicant who has completed the property management and the property manager in charge education requirements may apply for a Property Manager in Charge license without first applying for Property Manager licensure. A previous draft of the license law Bill required a Property Manager in Charge applicant to first be licensed as a Property Manager for a period of one (1) year. The requirement to be licensed as a Property Manager is no longer applicable since there is no longer an experience qualification for a Property Manager in Charge license.

NEW BUSINESS

- 1) Proof of Notification under the new S.C. Code Ann. 40-57-330-(B) and 40-57-510 (A) - offering proof that the former Broker in Charge has been notified when an agent transfers or becomes inactive. The Commission agreed that is currently covered with the use of the Inactive Request Form (document #200).

MOTION:

Mr. Lee made a motion that the current use of the Inactive Request Form #200 will serve as compliance to 40-57-330-(B) and 40-57-510 (A). Mr. Poplin seconded the motion, which carried unanimously.

MOTION:

Mr. Lee made a motion to enter Executive Session to receive legal advice. Mr. Lockwood seconded the motion, which carried unanimously.

MOTION:

Mr. Stackhouse made a motion to enter Open Session. Ms. Pratt seconded the motion, which carried unanimously.

MOTION:

Mr. Lockwood made a motion to adjourn at 5:10 p.m. Ms. Pratt seconded the motion, which carried unanimously.