

South Carolina Real Estate Commission
Wholesaling Taskforce Teleconference Meeting Minutes
Tuesday, March 14, 2023 at 1:00p.m., Room 107

Public notice of this meeting was properly posted at the S.C. Real Estate Commission Office, Synergy Business Park, Kingstree Building, Commission website, 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. The telephone number and access code were provided on the posted agenda for members of the public wishing to join.

Taskforce Members Present:

John Rinehart – Commissioner, Taskforce Chair
Andy Lee – Commissioner
W. Brown Bethune- Commissioner
Austin Smallwood, Esq., SCR
Charles Mace

SCLLR STAFF PRESENT:

Kyle Tennis, Esq., Office of Advice Counsel
Meredith Buttler, Administrator
Ashlynn Kirk, Administrative Coordinator

PRESENT:

Sean Cary, Court Reporter

CALLED TO ORDER: Mr. Rinehart, Chair, called the meeting to order at 1:01 p.m.

APPROVAL OF AGENDA

Motion: To approve the agenda.

Moved by Mr. Lee and seconded by Mr. Mace, the motion carried by unanimous vote.

INTRODUCTION OF TASKFORCE MEMBERS AND STAFF

Taskforce members and staff introduced themselves.

DISCUSSION AND DEVELOPMENT OF POSITION STATEMENT ON THE PRACTICE OF WHOLESALING

a. Review of SC Law

Mr. Tennis is currently working on the preliminary draft of the Wholesaling position statement for South Carolina. Currently the draft includes the general definition of wholesaling, issues with wholesaling, contrasting wholesaling with flipping, broker-in-Charge responsibility, wholesaling by unlicensed individuals and licensed individuals, agency law and fiduciary duties, and potential action that can be taken by the Commission. Mr. Rinehart and Mr. Tennis had questions and points for discussion for the taskforce in order to move forward with the position statement, which included the following:

- Whether an unlicensed wholesaler is acting as a broker
- The legal obligations when one is assigning a contract in South Carolina
- Differentiating between assignment of a contract and wholesaling
- Jurisdiction of the Commission with respect to licensed and unlicensed individuals engaged in wholesaling
- Whether licensees can provide enough disclosures to their clients or customers to allow for licensees to engage in wholesaling without breaching their duties
- The involvement of the Department of Revenue regarding tax codes and whether individuals are acting as dealers

b. Review of Licensee Responsibility and Liability

Discussion of a licensee’s responsibilities ensued. Licensees owe specific duties when dealing with customers and clients pursuant to S.C. Code Ann. § 40-57-350. Mr. Lee stated that wholesalers are targeting specific individuals and taking advantage of them, that practice is not right. Mr. Mace states that licensees are obligated to provide a true disclosure.

Mr. Rinehart opined that licensees should not practice wholesaling due to the potential issues with the law. Mr. Smallwood stated that legislation regarding wholesaling may begin soon. Discussion ensued as to whether requiring a license to engage in wholesaling would conflict with the duties licensees owe in statute. Mr. Smallwood stated he will keep the Commission and this Taskforce updated.

DISCUSSION OF RESEARCH STUDY ON IMPACT OF WHOLESALING ON SOUTH CAROLINA

Mr. Rinehart provided an update regarding funding approval by the Finance Taskforce. The finance taskforce proposed funding \$100,000 for wholesaling research. Mr. Rinehart believes these are sufficient funds proposed by Finance Taskforce and will be brought to the Commission for approval. Mr. Tennis stated a study of the impact on wholesaling on South Carolina residents would be helpful to include in the research as well.

PUBLIC COMMENTS

No public comments.

ADJOURNMENT

Motion: To adjourn the meeting.

Moved by Mr. Lee and seconded by Mr. Bethune, the motion carried by unanimous vote.

The Wholesaling Taskforce meeting adjourned at 2:09 p.m.