

**South Carolina Real Estate Commission
Meeting Minutes**

Thursday, March 16, 2023 at 10:00 am
110 Centerview Dr., Kingtree Building, Room 105
Columbia, South Carolina 29210

Public notice of this meeting was properly posted at the S.C. Real Estate Commission Office, Synergy Business Park, Kingtree 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.

Commission Members Present:

William “Andy” Lee, Chair – 3rd Congressional District
John Rinehart, Vice-Chair – 5th Congressional District
Allen Wilkerson – 2nd Congressional District
David Burnett – 4th Congressional District
Janelle Mitchell – 6th Congressional District
W. Brown Bethune – 7th Congressional District
Jonathan Stackhouse – Public Member

SCLLR STAFF PRESENT:

Kyle Tennis, Esq., Office of Advice Counsel
Meredith Buttler, Administrator
Joi Middleton, Education Manager
Ashlynn Kirk, Administrative Coordinator
Chuck Waters, Office of Investigations and Enforcement
James Kemfort, Office of Investigations and Enforcement
Michael “Doc” Smith, Office of Investigations and Enforcement
Wattie Wharton, Office of Investigations and Enforcement
Rowland Alston Esq., Office of Disciplinary Counsel

PRESENT:

Katherine Boone, Court Reporter
Austin Smallwood, SCR
Dan Lang
Cynthia J. Smith
Charles Mace

CALLED TO ORDER: Mr. Lee, Chair, called the meeting to order at 10:07 am.

INVOCATION

Mr. Rinehart gave the invocation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by all present.

INTRODUCTION OF COMMISSION MEMBERS AND STAFF

Commission members and staff introduced themselves.

APPROVAL OF EXCUSED ABSENCES

Motion: To approve the absence of Commissioners Candace Pratt and Gary Pickren.
Moved by Mr. Bethune and seconded by Ms. Mitchell, the motion carried by unanimous vote.

APPROVAL OF AGENDA

Motion: To approve the agenda.
Moved by Mr. Rinehart and seconded by Mr. Burnett, the motion carried by unanimous vote.

APPROVAL OF MEETING MINUTES

Motion: To approve the February 15, 2023 Commission meeting minutes.
Moved by Mr. Wilkerson and seconded by Ms. Mitchell, the motion carried by unanimous vote.

CHAIRMAN'S REMARKS

None

STAFF REPORTS

- a. Office of Investigations and Enforcement (OIE) Report
Mr. Kemfort reported from January 1, 2023 to March 10, 2023, 155 complaints have been filed. OIE currently has 76 active cases and 30 cases have been closed during that time period.
- b. Investigative Review Committee (IRC) Report
Mr. Kemfort reported the IRC met on March 7, 2023, via teleconference. The IRC recommends the following: 7 cases for dismissals, 8 cases for Letters of Caution, 3 cases for dismissal with a cease and desist, and 8 formal complaints.

Motion: To accept IRC recommendations as presented.
Moved by Mr. Rinehart and seconded by Ms. Mitchell, the motion carried by unanimous vote.

Mr. Alston requested clarification from the Commission regarding first-time offense cases where the agent has failed to ensure earnest money was deposited on time but was done within a few days. Mr. Lee stated that a first-time, non-egregious offense would warrant a Letter of Caution. If done repeatedly, then would require to come before the Commission for a hearing. Mr. Burnett recommended the topic of trust agreements and agents following up on the money be discussed by the Commission at a later meeting.

c. Office of Disciplinary Counsel (ODC) Report

Mr. Alston reported as of March 1, 2023, there are 70 open cases of which 35 are pending hearings and agreements, 0 pending closure, and 11 have been closed since January 1, 2023.

Mr. Alston asked for another disciplinary hearing date be added to the calendar due to the high volume of cases. The Commissioners agreed to change the June 22, 2023 meeting from administrative to disciplinary hearings.

d. Administrator Report

Mrs. Buttler reported there are currently 7,404 active Broker-in-Charge licenses; 4,903 active Broker licenses; 33,004 active Salesperson licenses; 1,421 active Property Manager-in-Charge licenses; 1,736 Property Manager Licenses. The Commission was also presented the totals for initial applicant volume, timeshare salesperson registrants, real estate firms and property manager office registrations.

The Commission's current account balance as of January 31, 2023, is \$7,567,747.80. Also included in the meeting materials is the cash balance report for the Education and Research fund as well as the Timeshare fund.

As indicated at previous meetings, Mrs. Buttler is happy to assist with presentations to the various state associations. On February 28, 2023, Ms. Buttler provided a Commission update report to the Charleston Trident Association of Realtors. On March 9, 2023, Mr. Rinehart and Mrs. Buttler presented to the Piedmont Regional Association of REALTORS. There are two additional presentations coming up at the end of the month as well as additional presentations in July and September. For all of these presentations, Mrs. Buttler would like to have a commissioner in attendance with her. To minimize travel and time demands, she will reach out to the commissioner representing that congressional district first. If the commissioner is approached to speak, Mrs. Buttler requested the Commissioners notify her as she will provide the Commission PowerPoint and any additional documentations. Again, Mrs. Buttler is happy to travel and attend as well so that our licensees can have their questions answered.

Renewals are set to open at the beginning of April. A renewal resource page has been built out to assist licensees with all renewal questions. The Document Submission section in the Licensee portal is nearing completion. Included on the renewal resource page are How-To PDFs that walk a licensee through the process of document submission and provide screen shots. In addition to the normal renewal notices, all licensees will receive e-blasts highlighting the new resource page and informing them of the revised reinstatement process. Mrs. Buttler also plans to send a targeted email to the BICs and PMICs regarding the revised reinstatement process so that they can make sure their associated licensees renew on time. There is a way for BICs and PMICs to view the associated licensees for each firm and instructions on how to do this will be included.

e. Education Report- Joi Middleton

Ms. Middleton provided to the Commission a report containing a snapshot of top performing pre-licensing course providers for viewing purposes only, it is not to recommend any provider over another. The report is broken into to the state and national exam portions and shows a mix of in-person and distance learning providers in the top performing.

Ms. Middleton also provided a report of the last 5 years of the state and national exam passage rates, from 2018 through 2022. In 2021 the number of test takers increased for both the state and national portions.

Ms. Middleton also provided reports showing the number of new instructor applications received from 2018-2022 and the number of active courses, instructors, and providers as of March 10, 2023. Mr. Burnett stated that the Property Manager Passage rate has been significantly higher than the other license type passage rates, and questioned if the Property Manager license had a national exam as well. Ms. Middleton stated the Property Manager license only has the state examination. Mr. Burnett expressed concerns that the Property Manager course and exam needs to be updated. Ms. Middleton provided that course has not been updated since 2015. Mr. Rinehart reminded commissioners that the finance proposal should have allocated sufficient funds to education, and this course can be updated using those proposed funds.

TASKFORCE REPORTS

a. Finance Taskforce

On behalf of Mr. Pickren, Mrs. Buttler reported that the Financial Taskforce met on March 14, 2023 via in person and WebEx. The taskforce finalized the finance proposal at that meeting, recommending a spending total of \$3 million. The taskforce identified four categories recommended for funding: Education, Research, I.T. Development, and Communication. The proposal breaks out each category and the projects within each providing a project description, responsible party, and maximum spending allocation. Within the Education category, the taskforce recommends spending funds on the creation of core courses, licensee safety, licensee guidelines/manual, remediation courses, pre-licensing courses/syllabus/instructor development, and continuing education courses. Within the Research category, the taskforce recommends spending funds on wholesaling research and converting forms to Spanish and potentially other languages. Within the I.T. Development category, the taskforce recommends spending funds on enhancement of the website. Within the Communication category, the taskforce recommends spending funds on newsletters, E-blasts, Social media, and video messaging enhancements, as well as Commissioner and Administrator Travel for presentations.

Motion: To approve the finance proposal as written.

Moved by Mr. Stackhouse and seconded by Mr. Burnett, the motion carried by unanimous vote.

At 10:57a.m., Mr. Lee excused himself from the duration of the meeting. Mr. Rinehart, as Vice Chair, led the Commission meeting for the duration of the day.

b. Education Taskforce

Mr. Burnett reported that the full Education Taskforce has not met since February. However, the Instructor Development Workshop (IDW) subcommittee met on March 6, 2023. The IDW currently does not have recommendations as of yet. The Education Taskforce will continue to meet as well as the subcommittees for IDW and Distance Education. Mr. Burnett expressed his excitement for the approved finance proposal allotment to the creation of remediation courses. The taskforce will look to create up to 20 topics for remediation course bank depending on the needs of the licensees. Mrs. Buttler is working on the framework for possible topics for the course bank. Mr. Burnett strongly encourages these courses will be available for distance proctoring and asked for Commission input. Mrs. Buttler described how the distance proctoring would work, based off her experience with previous boards. The Commissioners agreed that distance proctoring is acceptable for the remediation courses.

c. Wholesaling Taskforce

Mr. Rinehart provided an update regarding the Wholesaling Taskforce, which met on March 14, 2023. Mr. Tennis is continuing working on the draft of a position statement on wholesaling, which will be brought to the Commission for consideration once the draft is completed. Since the Finance Taskforce approved for funding wholesaling research, the Wholesaling Taskforce will begin working on questions and guidelines a potential RFP will cover. This is a work in process. Mr. Rinehart recognized Charles Mace and his help with the Wholesaling Taskforce as he was in the audience today. Mr. Rinehart also reminded those watching and in attendance that the Taskforce meetings are open to the public.

NEW BUSINESS

a. IRC Parameters- Meredith Buttler

Mrs. Buttler reviewed briefly the complaint process and the IRC's role within the process. The parameters are based off of past Commission decisions and are the minimum level sanction that may be offered if the case is recommended for formal complaint. If the case is egregious or the category of offense has not been addressed by the Commission in prior orders, the IRC would recommend it be brought before the Commission. Mrs. Buttler noted that other boards include cost of investigations within sanction parameters and the Commission is able to include this should they wish. Mr. Bethune asked for clarification of the cost of investigations and if that could also include cost of inspections. Mr. Tennis stated that the Commission has statutory authority to require respondents found in violation of the practice act to pay for the cost of investigations as part of the sanctions, but that does not extend to the cost of inspections.

Motion: To go into executive session to seek legal advice.

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

Motion: To return to open session and for the minutes to reflect no votes were taken during executive session.

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

Mr. Burnett asked about the proposed cost of investigations in the parameters and the where money would go. Mrs. Buttler explained that money would be placed in the Commission account but would be paid to the OIE/Legal Transfers of the Shared Services Summary, which is included on the Cash Report provided to the Commission at each meeting.

Motion: To accept 1st offense recommendations for IRC parameters, any 2nd offenses must come before the Commission, except for failure to update Commission in a timely manner regarding the following: brokerage, address, and name change. For this category the proposed sanctions are accepted.

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

b. Limited Commercial Real Estate License- David Burnett

Mr. Burnett stated that there are other states that provide a limited commercial real estate license. As many commercial licensees operate in a region within the US rather than a specific state, Mr. Burnett stated limited commercial licenses may be a good way to ensure agents are not operating outside of the license law. He has spoken with commercial agents and brokers, and believes this would be a beneficial license. Mr. Tennis stated that this new license category would require a statutory change. Mr. Wilkerson explained that companies hire someone local and pay referral to the out-of-state licensee. Mr. Wilkerson says this happens more on the leasing side rather than the buying and selling. Most companies have firms that network with a local licensed person.

Mr. Rinehart stated the Commission cannot move forward with this licensure unless legislatively changed. Mr. Tennis recommended adding this topic as an old business item to the next agenda for further discussion.

c. Review of SC REALTORS Taskforce Recommendations

Austin Smallwood of SCR provided the SC Realtors Taskforce recommendations to the Commission. Mr. Burnett and Mr. Lee observed those taskforce meetings. The SCR Taskforce included recommendations in the categories of brokers-in-charge, teams, education, agents, and the Commission generally.

Mr. Smallwood stated he would be happy to answer any questions or feedback the Commission has. Mr. Rinehart accepted the information and stated the Commission will review and have further discussion at a later meeting.

d. Discussion: Licensees Practicing in Multiple Regions of the State- Janelle Mitchell

Ms. Mitchell stated this topic was brought to Commissioners at a recent panel. She is asking for feedback from Commission if licensees who are practicing residential real estate should be selling property outside of a region they frequent.

Mr. Rinehart stated that we have a state license, not a regional license. Licensees will need to pay attention to the laws and regulations, such as SC Code Ann. § 40-57-350 which mentions areas of expertise. If there is a potential danger of practice outside a person's area of expertise, it is advised to refer to an agent in that area of expertise. Mr. Rinehart suggested this be a potential topic in an upcoming newsletter.

e. Inspection Taskforce- Kyle Tennis

Mr. Tennis advised that in May 2022 the Inspection Taskforce was created. So far this taskforce has not met. The Inspection Taskforce is composed of Mr. Rinehart, Mr. Lee, and Mr. Pickren as well as Mr. Tennis and LLR staff. The goal of this taskforce is to update the forms used by inspectors and provide clarification for inspectors as to the scope of inspections, how frequent periodic inspections need to be, and what should be specifically should be performed during the inspections as well.

Mrs. Buttler stated that Jennifer Stillwell is in charge of inspections and she had provided Mrs. Buttler with information regarding the current real estate inspection team. The current inspections team is three inspectors, and two additional inspectors are currently in training. So, there will soon be five inspectors in total that will perform Real Estate inspections. Mr. Rinehart asked how many inspections occur for Real Estate annually. This information may be pertinent to determine if more investigators are needed. Ms. Mitchell believes having more inspectors and inspections would be proactive and useful. Mr. Rinehart requested that Mrs. Buttler get the numbers requested and bring this topic back to the Inspection Taskforce when they meet. Mr. Burnett requested Ms. Stillwell to be at a full Commission meeting when this topic is discussed at a future meeting.

Mr. Tennis stated the Inspection Taskforce will meet soon, Mr. Rinehart requesting as soon as April or May of this year.

f. SC Attorney General's Opinion- February 23, 2023- Kyle Tennis

Mr. Tennis notified the Commission that an Attorney General's Opinion was issued February 23, 2023. Senator Hembree request the opinion regarding the licensure of online travel agencies, referred to as "OTAs" in regards to AirBnB, VRBO, etc. The Opinion concluded that the current practice act focuses on the licensing of individuals and not corporations and that this issue is best addressed by the General Assembly through legislation. Mr. Bethune also stated that Lee Hewitt submitted a bill addressing short-term rentals.

g. Out-of-State Trust Accounts- Kyle Tennis

Mr. Tennis followed up on a previous question raised at an earlier meeting regarding whether there are geographical limitations for where trust funds are held. In S.C. Code Ann. § 40-57-136(A)(3), a trust account maintained by a broker-in-charge or property manager-in-charge must be a demand deposit account located in an insured financial institution authorized to conduct business in South Carolina. Mr. Tennis stated that in the past the Commission has not required that trust accounts be physically and/or

geographically held within South Carolina to conform with S.C. Code Ann. § 40-57-136(A)(3).

h. Legislative Update- Katie Phillips

On behalf of Ms. Phillips, Mr. Tennis provided the a summary of the most recent legislative updates: LLR Reform Bill H.3605, which includes changes to the boards' process for considering criminal history of applicants, has gone through the House and the Senate committee has amended it to include an apprenticeship pathway for licensure that is largely the same as what was included in Senate Bill S.165. S.165 is pending second reading in the Senate. It appears that with the amendments, House Bill H.3605 covers the subjects that were in both S.165 and H.3605. If the House agrees with the amendments , it will go to the Governor. If the House disagrees, it will go back to the Senate for further negotiation. Regular session ends May 11, 2023.

EXECUTIVE SESSION

None

PUBLIC COMMENTS

Cynthia J. Smith brought before the Commission her concerns regarding the safety of personal information and DNA that could be leaked through the fingerprinting process of IdentiGo. Mr. Rinehart advised that the Commission cannot waive the fingerprinting requirement as this Legislative charge must be upheld.

ADJOURNMENT

Motion: To adjourn.

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

The meeting adjourned at 2:21 pm.