

**South Carolina Real Estate Commission
Meeting Minutes**

Thursday, January 18, 2024 at 10:00 am
110 Centerview Dr., Kingtree Building, Upstate Conference Room
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:

John Rinehart, Vice Chair – 5th Congressional District
Candace Pratt – 1st Congressional District
Allen Wilkerson – 2nd Congressional District
David Burnett – 4th Congressional District
Janelle Mitchell – 6th Congressional District
Johnathan Stackhouse – Public Member

SCLLR STAFF PRESENT:

Kyle Tennis, Esq., Office of Advice Counsel
Meredith Buttler, Program Director
Erica Wade, Commission Executive
Joi Middleton, Education Manager
Ashlynn Brown, Administrative Coordinator
Micah Hurtt, Administrative Coordinator
Rowland Alston, Esq., Office of Disciplinary Counsel
Chuck Waters, Investigator, Office of Investigations and Enforcement
Wattie Wharton, Lead Investigator, Office of Investigations and Enforcement
Todd Bond, Program Manager, Office of Investigations and Enforcement
Susan Boone, General Counsel and Deputy Director
Donnell Jennings, Assistant Deputy Director, Office of Investigations and Enforcement

PRESENT:

Katherine Boone, Court Reporter
Samuel Lee Broadway
Twanja Windley
Anthony Giarratano
Kayla West
Lorissa Bristol
Kristen Alvarez
Maria Bennett
Cherre Defranco
Deborah Nalbone
Greg Dowey
Jennifer Weiselt

CALLED TO ORDER: Mr. Rinehart called the meeting to order at 10:02 am.

INVOCATION

Mrs. Mitchell 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 absences of W. Brown Bethune, Gary Pickren, and Andy Lee.
Moved by Mrs. Pratt and seconded by Mr. Stackhouse, the motion carried by unanimous vote.

APPROVAL OF AGENDA

Motion: To approve the agenda.
Moved by Mrs. Mitchell and seconded by Mrs. Pratt, the motion carried by unanimous vote.

APPROVAL OF MEETING MINUTES

Motion: To approve the December 13, 2023 meeting minutes.
Moved by Mrs. Pratt and seconded by Mr. Wilkerson, the motion carried by unanimous vote.

CHAIRMAN'S REMARKS

None

STAFF REPORTS

- a. Office of Investigations and Enforcement (OIE) Report
Mr. Wharton reported that from January 2, 2023 to January 9, 2024, 614 complaints have been filed. OIE currently has 105 active cases, 67 cases have been closed during that time period, and 132 cases are pending review by the complaint analyst.
- b. Investigative Review Counsel (IRC) Report
Mr. Wharton reported the IRC met on January 4, 2024, via teleconference. The IRC recommends the following: 5 cases for dismissal, 3 cases for letters of caution, and 3 formal complaints.

Motion: To accept IRC recommendations as presented.
Moved by Mr. Stackhouse and seconded by Mrs. Pratt, the motion carried by unanimous vote.

- c. Office of Disciplinary Counsel (ODC) Report

Mr. Alston reported as of January 3, 2024, there are 43 open cases of which 18 are pending hearings and agreements, 0 pending closure, 1 appeal, and 4 have been closed since the last report in December 2023.

d. Board Executive Report

Mrs. Wade reported there are currently 7,351 active broker-in-charge licensees; 4,923 active broker licensees; 33,404 active salesperson licensees; 1,470 active property manager-in-charge licensees; and 1,858 property manager licensees. The Commission was also presented the totals for timeshare salesperson registrants, real estate or property management office registrations, and initial application volume from 2015 to present.

The Commission's current account balance as of January 12, 2024, is \$6,792,871.49. Also included in the meeting materials is the cash balance report for the Education and Research Fund as well as the Timeshare Fund.

Mrs. Wade notified the Commission that reinstatements of licensure closed December 31, 2023. Any licensees that did not renew by June 30, 2023, or reinstate by December 31, 2023, have now moved from lapsed to canceled status effective January 1, 2024. Mrs. Pratt requested that the number of lapsed to canceled licensees be included in the February report.

In addition, Mrs. Wade advised the Commission that staff is still working diligently to ensure that the licensees are all properly documented and preparing for renewals to open in April 2024.

Mrs. Wade also notified the Commission that the updated FAQs are now categorized and posted on the Commission's website. She did advise the Commission that the website is mobile friendly, if there are any issues with the website using a mobile device, to please notify Mrs. Wade or Mrs. Brown.

e. Education Report

Mrs. Middleton provided the education report. PSI held a webinar Monday January 8, 2024, at the request of the Commission's Education department. The webinar was for all pre-licensing course providers (providers of courses Unit I, Unit II, Broker IIIA and IIIB). Out of the 46 invitations sent to the pre-licensing education providers, 27 were able to attend the webinar. Providers that were unable to attend the webinar were sent an email from the Commission's education department with information on how to view the recorded webinar. During the webinar PSI discussed procedural information for candidates, their goals for the subject matter, obtaining experts to assist in the test development, and PSI's examination statistics.

Mrs. Middleton stated that one of the major concerns was South Carolina examination pass rates having dropped within the past few years. PSI did provide a chart showing that South Carolina examinees have a better passing rate for the national exam than that of other national exam takers. South Carolina is performing at a higher rate and PSI provided insight that passage of the South Carolina state portion of the exam has decreased in the past few years since 2020. In the past few months, Commission staff has

recently seen a slow increase in the passing rates. Mrs. Middleton will meet with PSI for test development for the state exam portion and determine what questions need to be re-written.

Mr. Rinehart requested that Mrs. Middleton contact the North Carolina Real Estate Commission regarding their experience with PSI Testing services. This may prove helpful with any future interactions with PSI Testing.

Mr. Burnett was curious as to the effect of online classes on the pass rate. Mrs. Middleton will look into the data regarding online classes and pass rates and provide this information at the next Administrative meeting in April.

f. Complaint Process Update- Susan Boone, General Counsel and Deputy Director, and Donnell Jennings, OIE Assistant Deputy Director

Discussions were held regarding the complaint process generally, which included but were not limited to the following:

Mrs. Boone explained the internal agency restructure that Director Farr put in place. Mrs. Boone advised the Commission that OIE is now fully staffed. Together with staff and Mr. Jennings, they are working on improvements of internal complaint processes. She is working with Mr. Jennings and staff to set better expectations for the public regarding the complaint process, this included updating the FAQ located on the “File a Complaint” page on LLR’s website.

Staff is also updating the letters that are sent to complainants to better set expectations and to better explain the investigation process. Included in these correspondences is the clarification that the agency is not involved in civil matters, that complaints are processed in the order received, and that the investigation processing time varies depending on the complexity of the case.

Mr. Rinehart indicated that sometimes the Commissioners receive questions from licensees who are being investigated, mostly questions regarding how long the investigation will take and if the investigation is ongoing. There is a major concern that complainants and respondents are not receiving enough communication during the duration of the investigations. Mr. Rinehart asked if there are any solutions being put in place for improving communications. Mrs. Boone stated staff has instituted a process where investigators reach out to complainant from the very beginning of the case and set expectations for the investigatory process.

Mr. Jennings then detailed the complaint cycle process and explained that there may be several reasons why complaint processing may take longer, including but not limited to a complaint being filed against the incorrect respondent. The Commission has one of the highest volume of complaints in the agency. Mr. Jennings also detailed process improvements the agency is implementing to assist the complaint analyst with reviewing and analyzing complaints so as to not cause delay. OIE is aware of the issues that licensees and public bring to the Commissioners.

Mr. Burnett recommended that the complainants be communicated with more often, as that would help the public feel like they are being heard. Mr. Burnett suggested monthly correspondences to complainants, with said correspondence being something as simple as an update that the investigation is ongoing.

Mrs. Buttler reminded the Commissioners that should these questions come to them, that they advise licensees to reach out to Mrs. Wade, she can respond and Commissioners can remain out of any conversations to avoid recusal issues.

Mr. Wharton also provided additional insight to the complaint process. After the complaint analyst has reviewed the case and if it warrants to become an open case, that case is then assigned to an investigator. The investigator then contacts the complainant via letter, phone, and email, and provides the complainant with the investigator's contact information and requests for any additional information regarding their case. The Complainant may contact the investigator at any time for updates or to provide additional information.

Mr. Burnett believes that the complainant and respondents need to be informed more often so the complainant does not think filing a complaint is a waste of time and so that the respondent knows what is coming next regarding the investigatory process and their licensure.

Mr. Wilkerson asked if there is data of the average time for review by complaint analyst before it is assigned to investigations. Mrs. Boone advised that they are currently tracking this information now, but do not have number as of yet.

Mr. Todd Bond also provided additional insight into the complaint. The OIE team are all hands-on deck, and do their best to help review and analyze complaints. Once a complaint has been reviewed and, if opened for a case, the case is assigned to the lead investigator, the lead investigator then assigns the case to an investigator who is best suited for that case. There are only 4 investigators for REC, and they also do investigations for other boards. Investigators send letters out to complainants within 5 days of the case being assigned to an investigator. After the case has been investigated, complainants are notified that their case has been sent to the IRC and has gone to the Commission for review.

Staffing concerns were also raised and discussed.

The Commission advised they are interested in helping in any way they can.

g. Inspection Forms Update – Kyle Tennis, Esq. and Jennifer Stillwell, Program Manager for Inspections

Mr. Tennis has been working with Mrs. Stillwell and the Inspections team to develop an updated inspections form. The updated form is intended to be more workable in the field and help investigators perform inspections. The Inspections Taskforce will review this form and provide input. Staff hopes to schedule the next Inspections taskforce meeting before the February 14 Commission meeting.

APPLICATION HEARINGS

a. Kristen Alvarez

Ms. Alvarez appeared before the Commission for a salesperson application hearing. She waived her right to counsel. Maria Bennett, Cherre Defranco, Deborah Nalbene, Greg Dowey, and Jennifer Weiselt served as witnesses on behalf of the applicant. All were sworn in by the court reporter. Application hearings are recorded by a certified reporter in the event a verbatim transcript is necessary.

Motion: To enter into closed session.

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

Motion: To enter into executive session for legal advice where no votes will be taken.

Moved by Mrs. Pratt and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

Motion: To exit executive session and return to closed session.

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

Motion: To approve Kristen Alvarez to sit for the salesperson exam.

Moved by Mrs. Mitchell and seconded by Mr. Wilkerson, the motion carried by a unanimous vote.

Motion: To come out of closed session and return to open session.

Moved by Mr. Stackhouse and seconded by Ms. Pratt, the motion carried by a unanimous vote.

b. Samuel Broadway

Mr. Broadway appeared before the Commission for a salesperson application hearing. He waived his right to counsel and was sworn in by the court reporter. Application hearings are recorded by a certified reporter in the event a verbatim transcript is necessary.

Mrs. Pratt was recused.

Motion: To enter into executive session for legal advice where no votes will be taken with Mrs. Wade remaining during executive session.

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

Motion: To exit executive session and return to open session.

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

Motion: To approve Samuel Broadway to sit for the salesperson exam.

Moved by Mr. Burnett and seconded by Mrs. Mitchell, the motion carried by a unanimous vote.

Mrs. Pratt returned to the meeting.

Motion: To enter into closed session for the next two application hearings.

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

c. Anthony Giarratano

Mr. Giarratano appeared before the Commission for a salesperson application hearing. He waived his right to counsel and was sworn in by the court reporter. Application hearings are recorded by a certified reporter in the event a verbatim transcript is necessary.

Motion: To approve Mr. Giarratano to sit for the salesperson exam.

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

d. Kayla West

Ms. West appeared before the Commission for a salesperson application hearing. She waived her right to counsel. Ms. Lorissa Bristol served as a witness on behalf of the applicant. All were sworn in by the court reporter. Application hearings are recorded by a certified reporter in the event a verbatim transcript is necessary.

Motion: To enter into executive session for legal advice where no votes will be taken.

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

Motion: To exit executive session and return to closed session.

Moved by Mrs. Pratt and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

Motion: To approve Ms. West to sit for the salesperson exam.

Moved by Mrs. Mitchell and seconded by Mrs. Pratt, the motion carried by unanimous vote.

Motion: To come out of closed session and return to open session.

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

OLD BUSINESS

a. Wholesaling- John Rinehart

Mr. Rinehart deferred discussion as there is legislation pending on this topic.

b. Regulations on Marketing: Cross Marketing and Social Media

Mrs. Wade stated that at the Sept 14, 2023 Commission meeting, the Commission requested a Notice of Drafting regarding this subject.

A taskforce will meet for this, any commissioners wish to be a part of this taskforce to please notify Mrs. Wade or Mrs. Brown.

Mr. Tennis stated that there was a new bill introduced, H.4754, that amends the practice act, including the marketing and advertising provisions. As such, Mr. Tennis advised that the Commission may wish to consider what happens with that bill first and then start the promulgation process with regarding these regulations.

c. Use of “Showing Agents”

At the December 13, 2023 meeting this topic was brought up, the North Carolina Commission had a bulletin about this topic. Mr. Tennis asked for the Commission’s indulgence and provide that further research will be conducted and a bulletin will be drafted regarding the use of “Showing Agents” to present at the next meeting.

NEW BUSINESS

a. Transition to Paperless License card system-Erica Wade

Mrs. Wade presented to the Commission that staff is requesting to move from physical paper to paperless pocket cards. Currently, licensees can go into their LLR eService portals and print their license pocket cards at no cost. If the licensee needs a physical card mailed directly from the Commission, we would allow for that upon request from the licensee and would mail the cards to the brokerage on file.

While staff are preparing for upcoming renewals, it was discovered that these are peak months for pocket card returns in the mail. From a financial perspective, Mrs. Brown stated that it costs \$0.56 to mail each envelope. On average 450 cards are returned to the office. Going paperless will assist staff in being good stewards of the Commission’s dollars and being time efficient. Mrs. Brown prepared a report that shows the amount of returns the Commission office receives monthly.

Staff is working towards an electronic system where Brokers-in-Charge (“BICs”) and Property Managers-in-Charge (“PMICs”) will have separate accounts from their personal license accounts. In this new account accessible to the BICs and PMICs, they will be able to view agents listed under their offices, have access to printing pocket cards for licensees under their supervision, and have the ability to remove any licensees who are no longer with their offices.

Often the BIC and PMIC do not inform the commission of address changes or verify the address on the supervision attestation forms accurately, and we mail the license pocket cards to the address in ReLAES. Sometimes the address is incorrect or missing information.

Mrs. Wade advised that if staff has to print the first set of physical license pocket cards, it will be free to licensees. However, the second and any subsequent printing of license pocket cards will incur a \$10.00 duplicate license fee per the Chapter 10 fee schedule. Each licensee is able to request 1 free card each renewal cycle.

Motion: To approve the transition to paperless license card system.

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

b. Approval of Proposed Reciprocity Agreement- Erica Wade

Mrs. Wade presented a signed reciprocity agreement from North Carolina. Staff is asking the Commission’s approval of the reciprocity agreement with North Carolina. If approved, staff is also requesting an effective date, and if will staff be allowed to grandfather in current applicants that are awaiting approval.

Motion: To enter into executive session for legal advice where no votes will be taken.

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

Mr. Stackhouse left the meeting at 2:24pm.

Motion: To exit executive session and return to open session.

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

Mr. Tennis stated that NC has signed the agreement however there are some items on the agreement that the Commission wishes to see amended and clarified.

Motion: To amend the reciprocity agreement to include clarification of Section II.b.ii. to specify North Carolina or South Carolina experience and item III to include clarify that either state may terminate the reciprocal agreement upon giving 30 days written notice to the other state.

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

Motion: If the amendments are approved by North Carolina, delegate authority to Vice Chair to sign the reciprocity agreement for the Commission.

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

Mr. Tennis will update the agreement with the proposed amendments. Staff will send the agreement to the North Carolina Real Estate Commission for signing.

Per the Commission, if the reciprocity agreement is approved, the effective date is the date the last state signs the agreement. Current applicants who have not yet been made exam eligible can be subject to the new reciprocity agreement. Applicants can reapply (and pay application fee) if they have already been made exam eligible.

c. Agency Agreement Forms and Addendums- Gary Pickren
Table for next meeting when Mr. Pickren returns.

d. Advertising and Coming Soon- David Burnett

Mr. Burnett provided a statement believing more regulations regarding advertising is needed, however this may fall under the cross marketing and social media taskforce being held and is likely affected by the recent introduction of house bill H.4754. In the meantime, staff will research other state advertising laws.

LEGISLATIVE UPDATE

Mr. Tennis provided a brief update regarding a number of bills.

House bills H.4223 and H.4464 are carry over from last year and both bills would prohibit a company from engaging in the real estate brokerage business unless the company's activities are conducted by licensees or under the supervision of a broker-in-charge or property manager-in-

charge. Both bills also add short-term and long-term rentals to the definition of “real estate brokerage,” and both bills add “in person, telephonically, or online” as means in which a real estate brokerage firm can be engaged in the business of real estate brokerage.

House Bill H.4225 is also a carry over from last year. It would amend Section 27-50-250 regarding the transfer of title of residential property subject to a vacation rental agreement. The section provides that a grantee of residential property subject to a vacation rental shall take title subject to that rental agreement and to the management agreement for all vacation rental periods that begin no later than 180 days after the date the interest is recorded by the purchaser with the register of deeds. Current law provides that the period begins no later than 90 days. Additionally, the bill would provide that if the vacation rental begins more than 180 days after the grantee’s interest is recorded, then no party has the right to enforce the terms of the rental agreement or occupancy but the tenant must be granted a refund of any payments made toward the agreement within 45 days of the recording.

Senate bill S.576 is another carry over. This bill addresses alien ownership of real property in the state.

Newly-introduced House bill H.4543 prohibits companies owned by the People’s Republic of China or the Chinese Communist Party from owning real estate in South Carolina.

House bill H.4754 was newly introduced. It amends and adds to the Commission’s Practice Act and includes most of the recommended proposed changes that the Commission recommended last fall.

Lastly, newly-introduced Senate bill S.881 creates a prohibition on unfair real estate service agreements at S.C. Code Ann. § 27-28-10. H.4754, which revises the practice act, includes similar prohibition on bad faith agreements under Title 40.

AGENDA TOPICS FOR FUTURE MEETINGS

Mr. Burnett requested the topic of Real Estate Education monitoring. He would like to know if there is a way to have education class inspections/auditors. He tasked staff to research what other states do and what can South Carolina do with this, if anything.

Mrs. Mitchell requested the topic of defining and clarification of BIC/PMIC supervision. For example, if a BIC has too many offices under their supervision and all are not managed by a physical BIC on site in the office.

Mr. Rinehart requested the topic of PSI and requested that Mrs. Middleton contact the North Carolina Commission regarding their experience with PSI testing services.

PUBLIC COMMENTS

None

ADJOURNMENT

Motion: To adjourn.

Moved by Mrs. Pratt and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

The meeting adjourned at 3:15 pm.