

**South Carolina Real Estate Commission
Meeting Minutes**

Wednesday, March 13, 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:

William “Andy” Lee, Chair – 3rd Congressional District
John Rinehart, Vice Chair – 5th Congressional District
Candace Pratt – 1st Congressional District
David Burnett – 4th Congressional District
Janelle Mitchell – 6th Congressional District
W. Brown Bethune – 7th Congressional District
Gary A. Pickren, Esq. – At-Large Member
Johnathan Stackhouse – Public Member

SCLLR STAFF PRESENT:

Erica Wade, Commission Executive
Ashlynn Brown, Administrative Coordinator
Kyle Tennis, Esq., Office of Advice Counsel
Meredith Buttler, Program Director
Rowland Alston, Esq., Office of Disciplinary Counsel
LeAnna McMenamin, Esq., Office of Disciplinary Counsel
Kim Long, Office of Disciplinary Counsel
Chuck Waters, Office of Investigations and Enforcement
Wattie Wharton, Lead Investigator Office of Investigations and Enforcement

PRESENT:

Sean Cary, Court Reporter
Austin Smallwood, Esq., SCR
Charles Mace
Duane Bargar

CALLED TO ORDER: Mr. Lee called the meeting to order at 10:02 a.m.

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 Allen Wilkerson.

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

APPROVAL OF AGENDA

Motion: To approve the agenda as written.

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

APPROVAL OF MEETING MINUTES

Motion: To approve the February 13, 2024 Inspection Taskforce meeting minutes.

Moved by Mr. Rinehart and seconded by Mr. Lee, the motion carried. Mr. Pickren abstained from voting.

Motion: To approve the February 14, 2024 meeting minutes.

Moved by Mrs. Mitchell and seconded by Mr. Rinehart, the motion carried. Mr. Stackhouse and Mr. Bethune abstained from voting.

CHAIRMAN'S REMARKS

None

STAFF REPORTS

a. Office of Investigations and Enforcement (OIE) Report

Mr. Wharton reported that from January 1, 2024, to March 7, 2024, 388 complaints have been filed. OIE currently has 86 active cases and 10 cases have been closed during that time period.

b. Investigative Review Conference (IRC) Report

Mr. Wharton reported the IRC met on February 29, 2024, via WebEx. The IRC recommends the following: 4 cases for dismissal, 6 cases for letters of caution, and 1 formal complaint.

Mr. Burnett requested further clarification regarding Case No. 2023-91. Mr. Waters provided clarification and clarified the findings of the IRC. Mr. Alston further explained that from the evidence obtained and based on the language of the statute at issue, there did not appear to be enough to substantiate the violation of said statute.

Clarification was also requested and provided for Case Nos. 2023-190 and 2023-91.

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

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

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

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

Motion: To accept IRC recommendations as presented with the exception of Case No. 2023-91, which is to be sent back to the IRC for further investigation and review.

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

c. Office of Disciplinary Counsel (ODC) Report

Mr. Alston reported as of February 26, 2024, there are 39 open cases of which 20 are pending hearings and agreements, 1 pending closure, 1 appeal, and 6 have been closed since the last report.

d. Board Executive Report

Mrs. Wade reported there are currently 7,375 active broker-in-charge licensees; 4,927 active broker licensees; 33,378 active salesperson licensees; 1,480 active property manager-in-charge licensees; and 1,880 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.

Mr. Burnett inquired why there is a dramatic change in the initial application volume for inactive salespeople from 2021 to 2022. Mrs. Buttler explained that it was due to the previously discussed 2022 internal system cleanup. These numbers reflect those that elected to be inactive or who were no longer supervised and thus were made inactive; they do not include lapsed or cancelled licenses.

The Commission's current account balance as of January 31, 2024, is \$6,655,271.87. 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 reminded the Commissioners to complete the Statement of Economic Interests for the South Carolina Ethics Commission by March 30, 2024. Information on completing the Statement of Economic Interest is located on the SC State Ethics Commission website. She advised Commissioners that if the Statement of Economic Interests is not completed by March 30, 2024, they will be assessed \$100.00 a day until the Statement is completed. Commissioners should reach out to Mrs. Wade or Mrs. Brown if they have any questions or need Mrs. Brown to resend their 2023 report needed for the statement.

Staff sent informational and resource sheets to MasterWord for translation, and was pleased to now have the Spanish versions of the Commission-approved forms on the website. The Spanish version of the informational documents can be found by going to the Real Estate Commission's page and clicking on the "Forms and Resources" button. Each of the drop-down boxes provides access to the English and Spanish versions of the approved forms. Mrs. Wade asked if there are no objections from the Commission, staff would like to have the FAQs translated to Spanish and uploaded to the website. The Commission approved.

Mrs. Wade reminded the Commissioners that she had sent an email to them asking for recommendations or a list of topics that they would want to ensure is included in the license guidelines manuals. Staff values the Commission's knowledge and will be seeking guidance on the document, but staff first wants to build the framework for the guidelines. Staff would like to collect the issues the Commission feels needs to be addressed and will be pulling information from prior Commission discussions, inquiries from licensees, as well as SCR, to ensure those laws and clarifications are addressed in the guidelines. After the data is compiled and staff constructs the document, the guidelines will be presented to Commission for review and potential approval. Staff believes that through this process, they will be able to identify specific areas that may need further clarifications as well as finding prior clarifications that may need to be revised due to industry changes and/or law changes.

Mrs. Wade notified the Commission that she, along with Mrs. Buttler and Mrs. Middleton, has or will be attending multiple association meetings across the state this spring, including:

- February 27, 2024- Charleston Trident Association of Realtors (WebEx)
- March 22, 2024- Spartanburg Association of Realtors (Spartanburg, SC)
- March 26, 2024- Piedmont Regional Association of Realtors (Rock Hill, SC)
- March 26, 2024- Costal Carolina Association of Realtors (Columbia, SC)

e. Education Report

Mrs. Wade provided the Education report on behalf of Mrs. Middleton. The Real Estate Commission Education team is preparing to host the mandatory Instructor Development Workshop training on Monday, April 15, 2024, at the Cooperative Conference Center. This course is for all South Carolina real estate instructors. There will be two sessions. The first session will begin at 8:00am – 12:00pm, This session is for Instructors who will be teaching the 2024-2026 Core Course.

The second session will begin at 1:00pm – 5:00pm, this session is a mandatory Instructor Development Workshop (IDW) for Instructors to renew their instructor credentials. For instructors that may be watching, please mark your calendars and spread the word.

Mr. Pickren requested that for future IDWs, he instructors needs to be notified earlier of the date for the workshop. Many instructors are busy professionals, including lawyers who need the advance notice in order to plan around their court dates.

Mr. Lee requested that there be make-up dates and online options for the session available as well. This is especially important for instructors who are unable to attend the April session due to an emergency or unfortunate event. Mrs. Wade will speak with Mrs. Middleton and work on adding make-up dates and the potential for online options for the sessions.

DISCIPLINARY HEARINGS

a. 2021-552 and 2022-68

The purpose of this hearing was to consider two Formal Complaints, one for Case No. 2021-552 and the other for Case No. 2022-68.

Disciplinary hearings are recorded by a certified court 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. Bethune and seconded by Mr. Rinehart, the motion carried by unanimous vote.

Motion: To exit executive session and return to public session. Moved by Mr. Stackhouse and seconded by Mr. Bethune, the motion carried by unanimous vote.

Motion: The state had not proven their cases and to dismiss both Case No. 2021-552 and Case No. 2022-68. Moved by Mr. Pickren and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

Mr. Rinehart stated that licensees need to keep in mind to act in a professional manner, as well as for licensees to make sure all paperwork is completed and filed correctly.

NEW BUSINESS

a. Unlisted Advertising and Liability of the Brokerage- Gary Pickren

Mr. Pickren addressed the Commission regarding concerns that were raised as to what can a real estate licensee market or advertise as it relates to another licensee's listing, particularly with respect to online marketing/social media. Mr. Charles Mace addressed the Commission and provided insight as to concerns licensees are experiencing.

Mr. Mace provided that one of the main concerns he faced was who would be liable for any issues that arose if a brokerage firm lists a property and posts the listing on social media, and then a licensee that is unaffiliated with the listing brokerage firm screenshots and shares that post, but then adds additional comments/edits. Mr. Mace was concerned as to whether the listing brokerage firm would be responsible for the unaffiliated licensee's comments/edits that may violate areas of the law, such as fair housing.

The Commission discussed Mr. Mace's scenario and related concerns. Commissioners expressed that the licensee making the comments/edits and not the listing brokerage firm would likely be in violation.

Mr. Pickren suggested that the Commission may need to address marketing and advertising, including online and social advertising as well as advertising other licensees' listings, by promulgating regulations on those issues. Mr. Tennis advised the Commission that a Notice of Drafting would first need to be published in the State Register in order to begin the regulation promulgation process on these issues.

Motion: For advice counsel to create a notice of drafting for marketing and advertising regulations.
Moved by Mr. Pickren and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

Mr. Pickren left the meeting at 2:00pm.

LEGISLATIVE UPDATE

Senate Bill S.881 creates a prohibition on unfair real estate service agreements at S.C. Code Ann. § 27-28-10. The Bill passed in the Senate and has moved to House Labor, Commerce and Industry committee. H.4754, which revises the practice act, includes similar prohibition on bad faith agreements under Title 40.

House bill H.4754, which amends and adds to the Commission's Practice Act and includes most of the recommended proposed changes that the Commission recommended last fall, has passed the House and has moved to the Senate Labor, Commerce and Industry committee.

As of Friday, March 8, 2024, there has been no additional movement on the other bills discussed at the Commission's last meeting.

Regulations regarding education and the property condition disclosure statement have passed the House and are before the Senate Labor, Commerce and Industry committee.

Mr. Burnett expressed some concerns regarding H.4754's language; Mrs. Buttler provided she would speak with him after to help address any concerns.

AGENDA TOPICS FOR FUTURE MEETINGS

Mr. Tennis recommended the following for future agenda topics:

- Updated Inspection forms and the inspections process as it relates to elevating issues to complaints
- Showing Agents Bulletin and memos regarding coming soon and advertising another agent's listing
- Update on new forms LLR staff has created for internal processes. Mrs. Brown provided some insight regarding the forms she has been working on.

- Auditing Instructors under Regulation 105-9(B) for the Commission to discuss staff capabilities and how to perform audits if capable.

PUBLIC COMMENTS

None

ADJOURNMENT

Motion: To adjourn.

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

The meeting adjourned at 2:07pm