

**South Carolina Real Estate Commission
Meeting Minutes**

Thursday, April 11, 2024 at 10:00 am
110 Centerview Dr., Kingstree 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, 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.

Commission Members Present:

William “Andy” Lee, Chair – 3rd Congressional District
John Rinehart, Vice Chair – 5th 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:

Meredith Buttler, Program Director
Erica Wade, Commission Executive
Joi Middleton, Education Manager
Ashlynn Brown, Administrative Coordinator
Micah Hurtt, Administrative Coordinator
Kyle Tennis, Esq., Office of Advice Counsel
Rowland Alston, Esq., Office of Disciplinary Counsel
Chuck Waters, Investigator, Office of Investigations and Enforcement
Wattie Wharton, Lead Investigator, Office of Investigations and Enforcement
Joe Alaimo, Investigator, Office of Investigations and Enforcement
Chuck Turkal, Investigator, Office of Investigations and Enforcement

PRESENT:

Katherine Boone, Court Reporter
Austin Smallwood, Esq., SCR
Terah Shelton
Charles Mace
Latasha Williams
Prudence Vanderhorst

CALLED TO ORDER: Mr. Lee 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 Allen Wilkerson and Candace Pratt.

Moved by Mr. Rinehart 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 Mr. Rinehart, the motion carried by unanimous vote.

APPROVAL OF MEETING MINUTES

Motion: To approve the March 13, 2024 meeting minutes.

Moved by Mr. Bethune and seconded by Mrs. Mitchell, 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, 2024, to April 5, 2024, 1,058 complaints have been filed. OIE currently has 224 active cases, 140 cases have been closed during that time period, and 213 cases are pending review by the complaint analyst.

b. Investigative Review Conference (IRC) Report

Mr. Wharton reported the IRC met on March 26, 2024, via WebEx. The IRC recommends the following: 12 cases for dismissal, 3 cases for letters of caution, 1 Cease and Desist, and 2 formal complaints.

Mr. Burnett asked whether Case 2021-685 was being recommended for dismissal because the case cannot go forward as a formal complaint without testimony from the necessary witness. Mr. Alston confirmed that was correct.

Commissioners had questions regarding Case 2023-91 that was being recommended for a letter of caution, including whether the fee on the closing line item was a commission and whether there was any documentation regarding the fee.

Mr. Pickren questioned why a letter of caution was recommended for Case 2021-722, the when a licensee allegedly stole an item from a home and was caught attempting to sell that item on Facebook. Mr. Alston explained that the arrest occurred in Georgia and there

was no conviction. Mr. Wharton explained that the case was discovered through the Georgia Real Estate Commission.

Motion: To enter into executive session for legal advice where no votes will be taken. Moved by Mr. Pickren and seconded by Mr. Burnett, the motion carried by unanimous vote.

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

Motion: To accept IRC recommendations with exceptions that Case 2021-722 and Case 2023-91 become formal complaints. Moved by Mr. Pickren and seconded by Mrs. Rinehart, the motion carried by unanimous vote.

c. Office of Disciplinary Counsel (ODC) Report

Mr. Alston reported as of March 26, 2024, there are 35 open cases of which 20 are pending hearings and agreements, 0 pending closure, 1 is on appeal, and 8 have been closed since the last report.

d. Board Executive Report

Mrs. Wade reported there are currently 4,391 active broker-in-charge licensees; 2,981 broker-in-charge licensees active in renewal; 2,932 active broker licensees; 2,006 broker licensees active in renewal; 19,358 active salesperson licensees; 14,181 salesperson licensees active in renewal; 977 active property manager-in-charge licensees; 518 property manager-in-charge licensees active in renewal; 1,305 active property manager licensees and 584 property manager licensees active in renewal. 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 February 29, 2024, is \$6,507,951.66. Also included in the meeting materials is the cash balance report for the Education and Research Fund as well as the Timeshare Fund. Mr. Bethune inquired where the funds for the timeshare recovery fund comes from. Mrs. Buttler and Mrs. Wade will contact the finance department for clarification of where the funds are generated from.

Mrs. Wade advised that renewals opened April 1, 2024. There are 27,745 licensees and 346 timeshare registrants up for renewals. As of today, 3,693 active licensees and 919 inactive licensees have renewed.

Mrs. Wade notified the Commissioners that she had sent an email asking for recommendations/list of topics that they would like to see added to the license guidelines manual. An example of some of the topics that will be addressed in the manual are BIC /PMIC Supervision, Designated Agency vs. Dual Agency, Residential vs. Commercial Practice, and Commingling of Funds among other topics. If there are any additional

topics the Commission wants to ensure are addressed, to email those to Mrs. Wade by April 30, 2024, to continue building out the framework for the manual. Mrs. Wade also advised that staff is currently in the process of trying to hire an intern to assist Commission staff with this project. After the data collection is compiled and the document is constructed, it will be presented to Commission for review and input.

Mrs. Wade expressed her thanks to Mr. Rinehart, Mr. Burnett, and the Coastal Carolina Association for inviting her to speak at their Association meetings.

e. Education Report

Mrs. Middleton provided the education report. She notified the Commission that the current testing center company that is used for exams, PSI, was acquired by the company ETS (Education Testing Services). Known changes to this transition include:

- Updates to testing security measures (notices of this update have been posted to PSI's website and Bulletin)
- Updates regarding cancellation of testing, including that test takers will be notified via text message for quicker notifications.

Mr. Pickren inquired about the history of ETS. Mrs. Middleton advised that ETS is the largest private educational testing service and has handled GRE testing. As staff learns more about ETS, they will share any updates.

Mr. Burnett asked if there would be additional testing locations due to the acquisition. Mrs. Middleton stated, as of this time, there are no known plans for additional testing centers/locations.

Mrs. Middleton provided the score report for the months of February and March.

Mr. Burnett inquired if first time test takers are at a 50% pass rate. Mrs. Middleton confirmed that is correct.

Mrs. Middleton stated that staff will send an email reminder to all instructors regarding the Instructor Development Workshop ("IDW") on April 15, 2024, and the virtual make-up session that is scheduled for July 15, 2024.

APPLICATION HEARINGS

a. Duy Nguyen

Mr. Nguyen did not appear before the Commission despite being properly noticed. Ashlynn Brown served as witness for the State 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 deny Duy Nguyen to sit for the salesperson exam.

Moved by Mr. Rinehart and seconded by Mrs. Mitchell, the motion carried by a vote of 6 in favor to 1 opposed.

Motion: To amend the agenda by moving item 9b (Prudence Vanderhorst) after 9c (Terah Shelton).

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

- b. Terah Shelton
Mr. Shelton 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 enter into closed session.

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

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

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

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

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

Mr. Shelton withdrew his salesperson application at this time and may reapply.

Motion: To return to open session.

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

- c. Prudence Vanderhorst
Ms. Vanderhorst appeared before the Commission for a property manager application hearing. She waived her right to counsel and was sworn in by the court reporter. Applications hearings are recorded by a certified reporter in the event a verbatim transcript is necessary.

Motion: To approve Ms. Vanderhorst to sit for the property manager exam.

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

INSPECTIONS

- a. Inspection Taskforce Report- Andy Lee

- i. Updated Inspection forms

Mr. Tennis presented the updated inspection forms to the Commission. He explained what information and questions were added to the forms since Mr. Lee's last Inspection Taskforce report.

- ii. Inspection Process and Elevating Inspection Issues to Complaints
Mr. Tennis presented two flowcharts to the Commission; one for what occurs if after a failed initial inspection there is a failed re-inspection and the other for when an inspector is unable to inspect an office after multiple attempts to do so. Both show the potential process elevating the inspections process to a complaint for investigation.

Motion: To enter into executive session for legal advice where no votes will be taken.
Moved by Mr. Pickren and seconded by Mr. Bethune, the motion carried by unanimous vote.

Motion: To exit executive session and return to open session.
Moved by Mr. Rinehart and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

Mr. Tennis asked the Commission to review the inspection forms and inspection process elevation charts. He requested a special-called WebEx meeting to be scheduled for late May in regards to the documentation. Commission approved.

OLD BUSINESS

- a. Coming Soon Memo- Kyle Tennis
Mr. Tennis asked the Commission to review the documentation and that this topic be placed on the agenda for the special-called WebEx meeting to be schedule for late May. Commission approved.
- b. Advertising Memo- Kyle Tennis
Mr. Tennis asked the Commission to review the documentation and that this topic also be placed on the agenda for the special-called WebEx meeting to be schedule for late May. Commission approved.
- c. Use of “Showing Agents” Bulletin- Kyle Tennis
Mr. Tennis asked the Commission to review the documentation and that this topic also be placed on the agenda for the special-called WebEx meeting to be schedule for late May. Commission approved.

NEW BUSINESS

- a. Remote Exam Proctoring- Joi Middleton
Mrs. Middleton brought to the attention of the Commission, that at its May 17, 2023 meeting, the South Carolina Real Estate Commission extended its temporary waiver of the in-person final exam proctoring requirement for distance pre-licensing courses until June 30, 2024, in accordance with S.C. Code Ann. Regs. 105-6(C). This allows for virtual proctoring of the final examinations required for pre-licensing course completion. Mrs. Middleton received multiple requests to ask the Commission to reconsider the expiration of the waiver and to make this a permanent implementation. Mrs. Middleton asked if the Commission would like to make the waiver permanent or further extend the waiver. Mr. Lee suggested a potential sub-committee to research and create a list of

suggested regulations in regards to remote proctoring. Commissioners agreed that there should be a certain ratio of students to proctors. Mr. Lee also requested that staff research the percentage of fail rates for the online courses. After discussion, the following motion was made.

Motion: To extend the allowance of remote proctoring of the pre-licensing course final exam to June 30, 2025.

Moved by Mr. Rinehart and seconded by Mr. Bethune, the motion carried by a vote of 6 in favor to 1 opposed.

- b. Travel Approval- 2024 CLEAR Annual Educational Conference, September 16-19, 2024 in Baltimore, MD- Erica Wade

Mrs. Wade requested travel reimbursement approval for two staff members and 2 Commissioners to attend the CLEAR Annual Educational Conference.

Motion: To approve the coverage of travel expenses needed for two staff members and two Commission member to attend the CLEAR Annual Educational Conference.

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

- c. Travel Approval- 2024 FARB Regulatory Law Seminar & Innovation Conference, September 19-22, 2024 in Atlanta, GA- Erica Wade

Mrs. Wade requested travel reimbursement approval for Meredith Buttler and Andy Lee to attend the FARB Regulatory Law Seminar & Innovation Conference.

Motion: To approve the coverage of travel expenses needed for Meredith Buttler and Andy Lee to attend the FARB Regulatory Law Seminar & Innovation Conference.

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

- d. Travel Approval- 2024 ARELLO Annual Conference, September 23-26, 2024 in Chicago, IL- Erica Wade

Mrs. Wade requested travel reimbursement approval for seven staff members and 2 Commissioners to attend the ARELLO Annual Conference.

Motion: To approve the coverage of travel expenses needed for seven staff members and all Commissioners to attend the ARELLO Annual Conference.

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

- e. Travel Approval- 2024 ARELLO Regulatory Investigations Seminar, October 22-24, 2024 in Columbus, OH- Erica Wade

Mrs. Wade requested travel reimbursement approval for four staff members and 2 Commissioners to attend the ARELLO Regulatory Investigations Seminar.

Motion: To approve the coverage of travel expenses needed for four staff members and 2 Commissioners to attend the ARELLO Regulatory Investigations Seminar.

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

LEGISLATIVE UPDATE

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

As of April 8, 2024, Three bills have crossed over from one chamber to the next. Bill H.4754, which substantially amends the Real Estate Practice Act, has passed the House and is now in the Senate LCI Committee. Bill S.881, Prohibition of Unfair Real Estate Service Agreements, has passed the Senate and is now in the House LCI Committee. Bill S.576, Alien ownership of Real Property, has passed the Senate and is now in the House Ways and Means Committee.

The following bills did not cross over from one chamber to the other prior to the April 10, 2024 cross over date:

- Bill H. 4223, regarding Real Estate Brokers, was filed in the House on March 29, 2023, and referred to the House LCI Committee.
- Bill H 4464, regarding Real Estate Brokerages, was filed in the House on May 9, 2023, and referred to the House LCI Committee.
- Bill H. 4225, in regards to extending vacation rental agreements' time periods following transfers of title, was filed in the House on March 29, 2023, and referred to the House LCI Committee.
- Lastly, Bill H. 4543 prohibited companies owned by People's Republic of China or Chinese Communist Party from owning or exercising control of South Carolina real estate, was prefiled in the House on November 16, 2023, and referred to the House LCI Committee.

AGENDA TOPICS FOR FUTURE MEETINGS

Mr. Lee requested the agenda topic of parameters for proctors for distance pre-licensing courses. Mrs. Mitchell requested the topic of professionalism, truthfulness, and hostility between seller and buyer agents be added to a future agenda.

PUBLIC COMMENTS

Austin Smallwood of SCR brought forth a few topics for the Commission to take into consideration.

Mr. Smallwood stated that their office has been receiving many calls regarding the "team" statute, SC Code of Law 40-57-360(B). He asked if the Commission could provide clarification upon the interpretation Mr. Smallwood has of this statute. Mr. Tennis advised he will review that statute and provide Mr. Smallwood with clarification. Mr. Smallwood stated he is happy to work with the Commission.

Mr. Smallwood next inquired whether a real estate company under a common corporate umbrella with two different locations (two different REO office codes), and two different brokers-in-charge, would be considered two different entities. Discussion ensued. It was stated that these are in fact two separate brokerage firms and with respect to agency and supervision, the determining factor is the supervising broker-in-charge.

Finally, Mr. Smallwood inquired the following: if there are two offices with same broker-in-charge (the offices have different REO office codes), would the offices be able to engage in dual agency and cross over between the offices? Discussion ensued. The Commission recalled that they had previously discussed this issue and provided that this would be allowed in conformance with the laws regarding agency and supervision in the practice act but also raises issues regarding incentivizing one broker-in-charge to have multiple offices rather than having each office supervised by its own broker-in-charge. Mr. Rinehart also stated that the broker-in-charge would need to specify this in their legally-compliant company policy/office policy to avoid issues.

ADJOURNMENT

Motion: To adjourn.

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

The meeting adjourned at 1:54 pm.