

**South Carolina Real Estate Commission
Meeting Minutes**

Wednesday August 14, 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
Candace Pratt – 1st Congressional District
Allen Wilkerson – 2nd Congressional District
David Burnett – 4th Congressional District
Janelle Mitchell – 6th Congressional District
Gary A. Pickren, Esq. – At-Large Member

SCLLR STAFF PRESENT:

Erica Wade, Commission Executive
Joi Middleton, Education Manager
Ashlynn Brown, Administrative Coordinator
Kyle Tennis, Esq., Office of Advice Counsel
Carolyn Sutherland, Esq., Office of Advice Counsel
Erin Baldwin, Esq., Office of Disciplinary Counsel
Shannon Davis, Esq., Office of Disciplinary Counsel
Sonya Morse, Office of Disciplinary Counsel
LeAnna McMenamin, Esq., Office of Disciplinary 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
Chuck Turkal, Investigator, Office of Investigations and Enforcement
Jennifer Stillwell, Chief Inspector, Office of Investigations and Enforcement
Todd Bond, Program Manager, Office of Investigations and Enforcement
Donnell Jennings, Assistant Deputy Director, Office of Investigations and Enforcement

PRESENT:

Cortney Glover, Court Reporter
Austin Smallwood, Esq., SCR
Tammie Cadden
Diana Johnson
Julien Bynoe

CALLED TO ORDER: Mr. Lee called the meeting to order at 10:06 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 Johnathan Stackhouse and W. Brown Bethune.
Moved by Mr. Pickren and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

APPROVAL OF AGENDA

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

APPROVAL OF MEETING MINUTES

Motion: To approve the May 30, 2024 Special-Called meeting minutes.
Moved by Mr. Rinehart and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

Motion: To approve the June 12, 2024 Commission meeting minutes.
After Mr. Wilkerson made a motion to approve, which was seconded by Mr. Burnett, Mr. Pickren, Mrs. Pratt, and Mrs. Mitchell all abstained from voting due to not being present at the June 2024 meeting. Because there was not a quorum following the abstentions, no action was taken on approving the June 12, 2024 Commission meeting minutes, and they will be presented at the September Commission Meeting.

CHAIRMAN'S REMARKS

None

STAFF REPORTS

- a. Office of Investigations and Enforcement (OIE) Report
Mr. Wharton reported that from January 1, 2024, to August 1, 2024, 659 complaints have been filed. OIE currently has 215 active cases and 128 cases have been closed during that time period.

- b. Investigative Review Conference (IRC) Report
Mr. Wharton reported the IRC met on May 7, 2024 and July 30, 2024, via WebEx. The IRC recommends the following: 28 cases for dismissal, 8 cases for letters of caution, 3 Cease and Desist, and 8 formal complaints.

Mr. Burnett inquired if cases 2023-456, 2023-475, and 2023-542 listed under Letter of Caution, are all including similar problems with advertising. Mr. Wharton advised these are all separate cases that just so happen to involve advertising. Mr. Burnett was curious as to why the IRC did not feel that the cases needed to come before the Commission as Formal Complaints.

Mrs. Baldwin stated that ODC is awaiting the issuance of the guidance regarding the new advertising laws and that ODC will look to that guidance to aid in its prosecution, but that even without the guidance being issued yet she does believe these cases are in the correct recommendation on the IRC report.

Mr. Burnett inquired about Case 2024-292, where the licensee failed to renew their license in a timely manner. Discussion ensued and Mrs. Baldwin stated that the licensee involved in this case was not attempting anything malicious, that it was an accident, and the license has been renewed since the compliant was submitted. She also stated that she believes this case is under the correct recommendation as well.

Motion: To accept IRC recommendations as presented.

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

c. Office of Disciplinary Counsel (ODC) Report

Mrs. Baldwin reported as of July 31, 2024, there are 36 open cases of which 17 are pending hearings and agreements, 0 pending closure, 0 appeals, and 8 have been closed since the last report.

d. Board Executive Report

Mrs. Wade reported there are currently 7,228 active broker-in-charge licensees; 4,870 active broker licensees; 33,113 active associate licensees; 1,490 active property manager-in-charge licensees; 1,915 active property managers. 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 May 31, 2024, is \$6,566,005.05. Also included in the meeting materials is the cash balance report for the Education and Research Fund as well as the Timeshare Fund.

In the recent renewal period, **25,395** licensees renewed their license. Licensees with a June 30, 2024 expiration date that are in a lapsed status can reinstate their license through document submission on the website. The deadline for their reinstatement is June 30, 2026.

The Commission is partnering with SCR to host an agent safety virtual workshop in September. Mr. Daniel Creseap will be presenting. Staff will be sending out an e-blast soon to licensees with more details.

LLR has hired a part-time research assistant for the Commission. Her name is Janina Coleman and she will come on board September 17, 2024.

Mrs. Wade advised licensees that the link to the South Carolina Real Estate Laws on our website leads directly to the SC State Legislature's website. Staff has been advised that the state legislature website should be updated to reflect the new laws around the fall of this year. In the meantime, licensees can access a clean copy of the new laws by clicking on the Alert titled "2024 Changes to the Real Estate Practice Act" on the Commission website.

She advised that at the September Commission meeting, Elections will be held for the At large seat on the Commission. Staff will be sending out an e-blast to licensees with more information for anyone interesting in running for that seat.

e. Education Report

Mrs. Middleton provided the education report. The Commissioners were provided the last 3 months of Score Reports for the National and State exams. Mrs. Middleton commented that there has been a slight increase in the percentages compared to 2023. Staff met with PSI to integrate the new law changes into the PSI examination. A notification was sent to providers the total number of questions effected and to immediately implement the changes into the class material. Effective July 1st, those changes have been implemented into the PSI examination; about 33 items were terminology changes that affected the exam and those have been updated. There were 7 questions on the State exam that were substantively affected by the law changes; those will not be implemented until January 1, 2025 due to the exam committee needing to review the questions and conduct pre-testing on the questions.

Staff held the Instructor Development Workshop on April 15, 2024. There were 184 instructors in attendance. There were 103 instructors in attendance for the virtual make-up day for the Instructor Development Workshop.

The new Core Course, "Legal Hot Tips", will be implemented beginning September 1, 2024. Providers have been sent e-blasts regarding the new Core Course material and another will be sent out prior to the implementation date. The course materials cover topics such as differences between the Commission and associations, mismanagement of funds, understanding the complaint process, and identifying specific laws and regulations governing real estate transactions. Mr. Burnett inquired when the new Broker-in-Charge core course will take effect, Mrs. Middleton explained that the new Broker-in-Charge core course will be implemented in 2025.

Mrs. Middleton explained that the education department is currently in renewals, so far 70% of providers have renewed and 57% of instructors have renewed. Education renewals close August 31, 2024. Instructors and providers have 6 months to reinstate before they are required to reapply.

DISCIPLINARY HEARINGS

a. 2023-205 Tammie S. Cadden

The purpose of this hearing was to consider the Memorandum of Agreement (“MOA”) for Case No. 2023-205. Ms. Cadden appeared before the Commission and was not represented by counsel. Diana Johnson served as a witness for Ms. Cadden and all were sworn in.

After opening statements were made, Mrs. McMenamain, with the Office of Disciplinary Counsel presented the State’s case. The respondent presented her case and answered questions posed by the Commission. Ms. Johnson also testified for the respondent.

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

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

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

Motion: Accept the MOA in which the Respondent admitted she was in violation of S.C. Code Ann. § 40-57-710(A)(5) (2017 Supp.) and order that the Respondent be issued a public reprimand, that she pay a fine of \$1,000 to be paid within six (6) months of the date of the final order, and to take three specific continuing education courses totaling twelve (12) hours of continuing education to completed within six (6) months of the date the final order is issued. The hours received for these courses will not be computed in and will not count toward the calculation of total continuing education hours that may be required for licensure or renewal. Moved by Mr. Pickren and seconded by Mrs. Pratt, the motion carried by unanimous vote.

NEW BUSINESS

a. Team Name Compliance

Mr. Tennis stated that as part of the changes to the Real Estate Practice Act that took effect May 21, 2024, one section of the practice act that had extensive changes was S.C. Code Ann. § 40-57-360, which affected team names. This particular section has a delayed implementation date of 3 years from the date of ratification. Licensees have inquired what are firms and licensees to do in order to be compliant with the law, especially with the delayed implementation date.

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

Motion: To have advice counsel draft guidance regarding the team name compliance issue providing that the licensees may choose to either meet all of the requirements of the new law in advance of its effective date or remaining in compliance with the existing law until the new law is effective. Said guidance would be subject to final review and approval by the Chair.
Moved by Mr. Burnett and seconded by Mr. Wilkerson, the motion carried by unanimous vote.

b. Team Agency and S.C. Code Ann. 40-57-160(B)

Mr. Tennis explained S.C. Code Ann. 40-57-360(B) and the inquiries staff have received regarding the use of the word “only” in that statute and whether the use of that word limited teams to engage in only dual agency, thus leading to teams not being allowed to engage in designated agency. Mr. Lee stated that it can only be dual agency within a team, as a team is defined and treated in the law as a single unit.

Mr. Smallwood addressed the Commission seeking further clarification. He asked whether a team itself, as a whole, could be considered a designated agent that is representing one client if there was another agent—not part of the team but part of the same brokerage firm—representing the other client while acting as a designated agent. The team itself would not be split up.

After discussion, the Commission opined that S.C. Code Ann. § 40-57-360 was focused on addressing actions within the team itself and not necessarily the brokerage firm more broadly. Following, the Commission saw no issue in a team, as a single unit, being a designated agent as provided in Mr. Smallwood’s scenario.

c. Offer Rejections Under New License Law

Mr. Tennis stated that at the last meeting in June, the Commission received an inquiry as to whether there are any exceptions to the requirement that an offer rejection form must be provided to the offeror by the licensee within 48 hours of rejection, as now required by S.C. Code Ann. § 40-57-135(I)(5), effective May 21, 2024.

The Commission agreed that there are no exceptions to the offer rejection form being provided to the offeror by the licensee within forty-eight (48) hours of the rejection.

d. Wholesaling Under New License Law

Mr. Pickren recused himself from this discussion.

Mr. Lee explained that there has been many inquires as to whether or not Wholesaling is legal or not and what the Commission's position is on Wholesaling.

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

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

Mr. Lee asked to form a Wholesaling taskforce that will research and provide wholesaling regulations for the Commission to review and approve. Mr. Lee will chair the taskforce. Mr. Wilkerson and Mr. Rinehart volunteered to serve on this taskforce as well.

e. Potential Regulations

Mr. Pickren returned to the Meeting.

Mr. Tennis provided a progress update regarding the following Notices of Drafting:

- Marketing & Advertising published on April 26, 2024.
- Updating Fee Schedule (Regulation 10-37) published on June 28, 2024. Initial revisions being made by administration and advice counsel. Amendment recommendations to be presented to the Commission for discussion and approval at a meeting later this year.
- Updating for Practice Act Compliance published on June 28, 2024. Development of and revisions being made by administration and advice counsel. Amendment recommendations to be presented to the Commission for discussion and approval at a meeting later this year. Areas being addressed in amendments include:
 - Procedure for licensee seeking to change license classification (S.C. Code Ann. § 40-57-110(A))
 - Procedure for reactivating an inactive license (S.C. Code Ann. § 40-57-110(B)(4))

- Providers required to electronically submit records of continuing education and qualifying courses; current regulation only specifies that providers must submit CEs to the electronic tracking system (Regulation 105-6(E)(2))
- In advertising, identifying full name of real estate brokerage firm of licensee (S.C. Code Ann. § 40-57-135(E)(2)(a))

Mr. Tennis sought Clarification from the Commission on the following topics:

- Marketing and advertising, would the Commission be interested in potentially include wholesaling/marketing of contracts vs. marketing of real estate (S.C. Code Ann. § 40-57-135(E))
- Would the Commission be interested in creating Guidelines for written office policy (S.C. Code Ann. § 40-57-135(A)(5))
- Creation and operation of teams, would the Commission be inclined to include the requirement of registration of team name on a Commission-prescribed form (S.C. Code Ann. § 40-57-360(F))

Mr. Tennis also inquired if the Commission would be interested in a Potential Notice of Drafting regarding Property Management Pre-Licensing Education Expiration. S.C. Code Ann. § 40-57-320(A)(1)(a) provides a 5-year limit that a pre-licensing course is good for before applying for an associate/broker/BIC license. However, there is not a corresponding time limit for property managers' pre-licensing courses; see S.C. Code Ann. § 40-57-510(C)(1)(a) for a property manager license.

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

Motion: To exit executive session and return to public session.
Moved by Mr. Pickren 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, and for Mrs. Wade to join to provide administrative background information.
Moved by Mr. Pickren and seconded by Mr. Rinehart, the motion carried by unanimous vote.

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

Motion: To not move forward with regulations regarding written office policy, registration of team names, or Property Management Pre-Licensing Education Expiration at this time.
Moved by Mr. Burnett and seconded by Mrs. Mitchell, the motion carried by unanimous vote.

COMMISSION OFFICER ELECTIONS

a. Chair

Motion: Mr. Rinehart serve a term as Chair.

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

b. Vice-Chair

Motion: Mr. Burnett serve a term as Vice-Chair.

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

GOOD CAUSE DETERMINATION DELEGATION- ALTERNATE

Mr. Tennis stated that this agenda item was originally placed on the agenda due to Mr. Rinehart being unavailable at the end of August through early September. Now that a new Vice Chair has been elected, and the Commission has already delegated to the Vice Chair position the responsibility to review good cause requests, there is no need for an alternate delegate for good cause determinations at this time.

AGENDA TOPICS FOR FUTURE MEETINGS

Motion: For a Special-Called WebEx meeting be held regarding transaction broker laws before the September 11, 2024 Commission Meeting.

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

PUBLIC COMMENTS

Austin Smallwood of SCR thanked Mr. Lee for the work he has done the past few years as Chairman of the Commission.

Mr. Smallwood explained that the National Association of Realtors stated that to be in compliance with the settlement that any form that discusses compensation and agency, including forms from an government entity, needs an amendment about disclosure of fees and that they are not fully negotiable. Would the Commission add the amendment to their forms or should SCR add this to their own forms? The Commission stated that they will not be adding this amendment to their forms, that SCR would need to do this with their own forms.

Mr. Smallwood inquired what constitutes a brokerage firm, this is a follow up from his inquiry at the April 11, 2024 Meeting. He provided an example where there is a single broker-in-charge over three offices, but each office has its own office code per LLR's records and asked whether each office would be considered its own brokerage firm. Mr. Pickren explained that the office code does not matter. What matters is the broker-in-charge that is supervising the supervised licensees. If the broker-in-charge is the same for agents under two separate office codes, that would require a dual or designated agency agreement. The Commissioners agreed.

In regards to S.C. Code Ann. § 40-57-135(E)(1) marketing of property, licensees who are not within that brokerage firm cannot host open house even with permission from the selling agent,

the Commission stated licensees cannot because if the licensees would be working for two different brokers-in-charge.

Mr. Smallwood suggested that the topic of where installment contracts fall within the practice of wholesaling as a subject researched by the Wholesaling taskforce or by the full Commission. Mr. Lee provided that this topic would be addressed later after the Wholesaling taskforce has met. Lastly, Mr. Smallwood explained the SCR complaint process, including confidentiality, as well as SCR Code of Ethics' concerns when a member shares information regarding an SCR complaint or hearing.

ADJOURNMENT

Motion: To adjourn.

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

The meeting adjourned at 2:27 pm.