

## **MINUTES**

### **South Carolina Real Estate Commission**

**Wednesday, October 17, 2018, 10:00am**

Synergy Business Park, Kingstree Building, Conference Room 105

110 Centerview Drive, Columbia, South Carolina 29210

#### **Meeting Called to Order:**

Chair Pratt called the meeting of the South Carolina Real Estate Commission to order at 10:00 a.m. Board members participating in this meeting included:

Candace Pratt – Chair - 1<sup>st</sup> Congressional District  
Andy Lee – Vice Chair - 3<sup>rd</sup> Congressional District  
David C. Lockwood, III - 2<sup>nd</sup> Congressional District  
David Crigler – 4<sup>th</sup> Congressional District  
John Rinehart – 5<sup>th</sup> Congressional District  
Janelle Mitchell – 6<sup>th</sup> Congressional District  
Scott McNew – 7<sup>th</sup> Congressional District  
Johnathan Stackhouse – Public Member

Staff members participating during the meeting included Roderick Atkinson, Board Administrator; Wanda Cooke, Administrative Assistant; Gigi Lewis, Office of Advice Counsel; Rowland Alston, Office of Disciplinary Counsel.

#### **Public Notice:**

Chair Pratt announced that public notice of this meeting was properly posted at the S.C. Real Estate Commission Office, Synergy Business Park, Kingstree Building, 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.

#### **Pledge of Allegiance:**

The Pledge of Allegiance was recited by all present.

#### **Invocation:**

Invocation was offered by Commissioner Rinehart.

#### **Approval of Absences:**

Wayne Poplin – At-Large Member

#### **MOTION:**

Mr. Lee made a motion to approve the absence of Commissioner Poplin. Mr. Crigler seconded the motion, which carried unanimously.

#### **Introduction of Board Members and Staff**

### **Introduction of Agency Director**

Agency Director, Emily Farr, addressed the Commission to offer thanks and appreciation for their service, and to advise that she is always available if Commissioners have questions or concerns.

### **Approval of Agenda:**

Disciplinary Hearing #1 - V.G. Lander - is continued.

### **MOTION:**

Mr. Crigler made a motion to approve the agenda, as amended. Mr. Lee seconded the motion, which carried unanimously.

### **Approval of the Meeting Minutes from September 19, 2018**

### **MOTION:**

Mr. Lockwood made a motion to approve the minutes of the September 19, 2018 meeting. Mr. Rinehart seconded the motion, which carried unanimously.

### **Chair's Remarks:**

*Candace Pratt*

### **New Business:**

- 1) SC Residential Property Disclosure Form - discussion was held concerning necessary updates to the existing form. The following topics were included:
  - a) HOA Disclosure (disclosure law amendment)
  - b) Historic Districts – Patti Marinelli and Amy Moore addressed the Commission to offer thoughts and concerns regarding disclosure of historic status communities.
  - c) Prior Insurance Claims – Commissioner Crigler discussed disclosure of past insurance claims.

A task force will be formed to recommend changes to the current SC Residential Property Disclosure Form, and will bring recommendations to the full Commission at the next meeting. This task force will include Commissioners Mitchell and Stackhouse.

### **MOTION:**

Mr. Lee made a motion to enter Executive Session to receive legal advice. Mr. Stackhouse seconded the motion, which carried unanimously.

### **MOTION:**

Mr. Crigler made a motion to enter Open Session. Mr. Lockwood seconded the motion, which carried unanimously.

## **DISCIPLINARY HEARINGS**

### ***Linda Witte (MOA)***

The Commission held a Disciplinary hearing regarding Linda Witte. Ms. Witte appeared before the Commission to present testimony, and was represented by Steven Kropski, legal counsel. Rowland Alston, Office of Disciplinary Counsel, represented the State, and presented the facts of the case. Mr. Rowland informed the Commission that Ms. Witte has signed a Memorandum of Agreement. The Commission reviewed said agreement and discussion ensued.

#### **MOTION:**

Mr. Lee made a motion to enter Executive Session to receive legal advice. Mr. McNew seconded the motion, which carried unanimously.

#### **MOTION:**

Mr. Crigler made a motion to enter Open Session. Ms. Mitchell seconded the motion, which carried unanimously.

#### **MOTION:**

Mr. Lee made a motion that the State has not met its burden of proof that the Respondent is in violation of S.C. Code Ann. 40-57-135(B) (4) (1976, as amended). Mr. Lockwood seconded the motion, which carried unanimously.

#### **MOTION:**

Mr. Rinehart made a motion that the State has not met its burden of proof that the Respondent is in violation of S.C. Code Ann. 40-57-135(A)(4) (1976, as amended). Mr. Stackhouse seconded the motion, which carried unanimously.

#### **MOTION:**

Mr. Crigler made a motion that the State has met its burden of proof that the Respondent is in violation of S.C. Code Ann. 40-57-135(A)(3)(1976, as amended) and moved to issue a Public Reprimand. Mr. Lockwood seconded the motion, which carried unanimously.

#### **MOTION:**

Mr. Lee made a motion that the State has met its burden of proof that the Respondent is in violation of S.C. Code Ann. 40-57-135(A) (1) (1976, as amended), with deletion of "and maintain real estate trust accounts when required by law". Mr. Rinehart amended the motion to add a Public Reprimand. Mr. Crigler seconded the motion, which carried unanimously.

#### **MOTION:**

Mr. Rinehart made a motion to accept the Memorandum of Agreement and Stipulation of Facts, as presented. Mr. Crigler seconded the motion, which carried unanimously.

Respondent's counsel requested a reconsideration of the sanctions.

#### **MOTION:**

Mr. Lee made a motion to deny the request to reconsider sanctions. Mr. Lockwood seconded the motion, which carried unanimously.

*(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)*

Commissioners Crigler and Pratt left the meeting at 1:30 p.m. However, a quorum was maintained. Vice Chair Lee presided as Chair in Ms. Pratt's absence.

***Melissa Jackson (MOA)***

The Commission held a Disciplinary hearing regarding Melissa Jackson. Ms. Jackson appeared before the Commission to present testimony, and was represented by Michael Morris, legal counsel. Rowland Alston, Office of Disciplinary Counsel, represented the State, and presented the facts of the case. Mr. Rowland informed the Commission that Ms. Jackson has signed a Memorandum of Agreement. The Commission reviewed said agreement and discussion ensued.

**MOTION:**

Mr. Lockwood made a motion that the State has met its burden of proof that the Respondent is in violation of S.C. Code Ann. 40-57-135(C)(6) (Supp. 2011); and that the State has not met the burden of proof that the Respondent is in violation of S.C. Code Ann. 40-1-110(1)(f) (Supp. 2011). It was further motioned that this case be dismissed and a Letter of Caution be issued. Mr. Rinehart seconded the motion, which carried unanimously.

*(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)*

**Administrator's Remarks:**

***Rod Atkinson***

**1. Licensure Update** as of October 9, 2018

• Broker	5185
• Broker in Charge	7705
• Property Manager	1677
• Property Manager in Charge	1288
• Salesman	27726
<b>TOTAL ACTIVE</b>	<b>43,581</b>
• Inactive Broker	1612
• Inactive Property Manager	734
• Inactive Salesman	6993
<b>TOTAL INACTIVE</b>	<b>9,339</b>

**TOTAL CURRENT LICENSES  
AS OF 10/9/18 52,920**

**2. Budget Update** –The Board reviewed the budget reports for August 2018.

**3. Investigations and Enforcement** – ***Rod Atkinson*** presented the Commission with an overview of the opened and closed cases from January 1, 2018 –October 10, 2018, as well as the same time period for the previous year.

**4. IRC Report -** The Commission reviewed the IRC report from October 8, 2018.

**MOTION:**

Mr. Stackhouse made the motion to approve all portions of the IRC report from October 8, 2018. Mr. Rinehart seconded the motion, which carried unanimously.

- 5. ODC Report – Rowland Alston** presented the Office of Disciplinary Counsel case load report.
- 6. Regulation Task Force Update – Commissioner Rinehart** gave the Commission a report on the ARELLO Conference he recently attended. He also updated the Commission on the progress being made by the task force for Regulation revisions. Discussion ensued.
- 7. Qualifying Course Exam Proctoring and Proctor Form -** there are a large number of states that have approved distance education - but most of the other states do not require "in-person" proctoring and/or approval of instructors for distance education courses. South Carolina still has this requirement in place. Also discussed was the need to certify exam proctors. Mr. Atkinson presented an "exam proctor certification" form, which could be used.

**MOTION:**

Mr. Rinehart made a motion to accept Section 105-6(C) in the allowance of qualifying school administrators to serve as proctors and the use of the Exam Proctor Certification form. Mr. Stackhouse seconded the motion, which carried unanimously.

**PUBLIC COMMENTS:**

Alston Smallwood, SCR, asked the Commission to consider approving the addition of new statutory language regarding HOA's to the SC Property Disclosure Form today. It was re-affirmed that the task force would recommend changes at the next meeting.

Mr. Smallwood voiced concerns SCR has received from members regarding a recent Public Consent Agreement. Advice Counsel Georgia Lewis and Administrator Rod Atkinson explained the Investigations and Investigative Review Committee recommendation process, burden of proof and how complaints and evidence are evaluated prior to recommendations.

**MOTION:**

Mr. Lockwood made a motion to adjourn at 3:00 p.m. Mr. Stackhouse seconded the motion, which carried unanimously.