

**MINUTES OF MEETING**  
**OF**  
**LOUISIANA REAL ESTATE COMMISSION**

**June 20, 2013**

The Louisiana Real Estate Commission held its regular meeting on Thursday, June 20, 2013, at 9:00 a.m., at 9071 Interline Ave, Baton Rouge, Louisiana, according to regular call, of which all members of the Commission were duly notified, at which meeting the following members were present:

**COMMISSION**

Patrick T. Caffery, Jr., Chairman  
Paul Burns, Vice Chairman  
James Gosslee, Secretary  
Mike D. Bono  
Archie Carraway  
Tim Flavin  
Rodney Noles  
Cynthia Stafford  
Frank Trapani  
Evelyn Wolford

**STAFF**

Bruce Unangst, Executive Director  
Summer Mire  
Debbie Debrates  
Mark Gremillion  
Robert Maynor  
Chad Mayo  
Marsha Stafford  
Ivy Stringer  
Sara Wheeler  
Jenny Yu

**GUESTS**

Burk Baker – Burk Baker School of Real Estate & Appraisal  
Jean Carraway  
Todd Dean – Training Current  
Amy Fennel – Louisiana REALTORS  
Darrin Heltz – Training Current  
Brent Lancaster – Bob Brooks School of Real Estate  
Norman Morris – Louisiana REALTORS

Commissioner Nugent Smith was unable to attend the meeting.

Commissioner Flavin led the Invocation; Commissioner Trapani led the Pledge of Allegiance.

**SWEARING IN OF COMMISSIONER WOLFORD**

Chairman Caffery swore in new commissioner Evelyn Wolford.

**MINUTES**

Commissioner Gosslee made motion, seconded by Commissioner Burns, to approve the minutes of the meeting of April 18, 2013. Motion passed without opposition.

### **PERSONAL APPEARANCES:**

1. Daniel Ford – Mr. Ford appeared before the Commission in connection with his request to obtain his real estate license.

On January 29, 2004, Mr. Ford pled guilty to charge of Carnal Knowledge of a Juvenile. For this offense, Mr. Ford was sentenced to a period of five (5) years hard labor. The court ordered the hard labor sentence to be suspended and he was placed on five (5) years probation. On January 29, 2009, Mr. Ford satisfactorily completed his probation.

Mr. Ford stated that he was indicted for a sex crime in St. Tammany Parish at the age of 16. He stated that he had consensual sex with a 14 year old girl who later claimed it was rape after her parents found out. He was being charged as an adult and faced many years in prison. At 18 years old, Mr. Ford was offered a plea bargain for Carnal Knowledge of a Juvenile. He stated that he and his parents could not afford a trial, so he took the plea bargain. The plea bargain consisted of being on probation for five years and registering as a sex offender for a total of 10 years. After his probation ended, the sex offender laws changed and now require an offender to register for a period of 15 years. Because of this, he will have to remain registered as a sex offender until 2019. Mr. Ford stated that because he was charged under the previous sex offender laws, he has the opportunity to have his record expunged on January 29, 2014. He is in the process of working on this expungement.

After further questions from the Commission, Commissioner Stafford made motion, seconded by Commissioner Noles, to allow Mr. Ford to obtain his salesperson license. Commissioner Trapani made a substitute motion, seconded by Commissioner Flavin, to allow Mr. Ford to obtain his salesperson license after his record had been expunged. Commissioner Noles spoke against the substitute motion. Chairman Caffery stated that he had reservations from a public perception standpoint about allowing a registered sex offender to be licensed as the Commission is charged with protecting the public. Commissioner Flavin made motion, seconded by Commissioner Trapani, to enter into Executive Session. Motion carried without opposition.

### **EXECUTIVE SESSION**

Commissioner Flavin made motion, seconded by Commissioner Trapani, to exit Executive Session and enter back in to the regular business meeting. Motion carried without opposition. Chairman Caffery asked Ms. Mire to re-read the substitute motion on the floor for vote. After a roll call vote, the substitute motion carried with Commissioners Stafford and Noles voting in opposition.

2. Holly Francis – Ms. Francis appeared before the Commission in connection with her request to obtain a real estate license.

Ms. Francis pled guilty on October 13, 1992, to the intent to commit the crime of obtaining a controlled substance (hydrocodone) by representing herself with a false name when telephoning a fraudulent prescription refill. For this offense, Ms. Francis received three days of hard labor. The court ordered she serve thirty (30) days in a jail-like facility on weekends and was granted credit for one (1) day of time served in jail. The balance of sentence was suspended, conditioned on Ms. Francis paying a fine of \$50.00 to the Victim Compensation Fund and a fine of \$1000.00 to the Drug Assessment Act. She was placed on formal probation as the expiration of the 30 day sentence. On November 18, 1994, Ms. Francis' probationary period was extended for one year because she was unable to make the payments due to financial hardship. On March 18, 1996, Ms. Francis satisfactorily completed her probation. She was previously licensed from June 14, 2002 to December 31, 2004.

After further questions from the Commission, Commissioner Flavin made motion, seconded by Commissioner Bono, to allow Ms. Francis to obtain her real estate license. After a roll call vote, motion carried without opposition.

3. Michael Kingham – Mr. Kingham appeared before the Commission in connection with his request to obtain his real estate license.

On November 12, 1986, Mr. Kingham pled guilty to burglary of a habitation with the intent to commit theft. For this offense, he was placed on ten years probation. On June 16, 1988 and October 19, 1988, Mr. Kingham tested positive for marijuana and violated the terms and conditions of his probation. Mr.

Kingham was sentenced to six years in the Texas Department of Corrections. Mr. Kingham served 11 months in confinement and was on parole for 5 ½ years.

Mr. Kingham stated that he was a runaway living on the streets at the age of 16. He often stole items so that he could sell them for food money. No one was ever hurt during his robberies and he always committed the crime when no one was home. Being that he had no money, he was appointed a court attorney and was qualified as an adult. During his 10 year probation period, Mr. Kingham failed two drug tests for marijuana. These occurrences happened over 27 years ago. Mr. Kingham has turned his life around and no longer does drugs and is working harder to support his son. He currently owns an advertising agency but the work is seasonal and most his contracts are in the wintertime.

After further questions from the Commission, Commissioner Flavin made motion, seconded by Commissioner Trapani, to allow Mr. Kingham to obtain his salesperson license. After a roll call vote, motion carried without opposition.

4. Darien Lester – Mr. Lester re- appeared before the Commission in connection with his request to obtain a real estate license.

On August 7, 2012, Mr. Lester pled nolo contendere to possession of a Scheduled III Controlled Substance. The court sentenced Mr. Lester under the provisions of Article 893 to pay court costs, or in default thereof, to serve one (1) year in the parish jail. Mr. Lester was placed on supervised probation for a period of one (1) year. Execution of the sentence was deferred until April 13, 2013, in conjunction with Article 893. Mr. Lester stated that he was placed on unsupervised probation with no probation officer. Payment of court costs was made by Mr. Lester on February 22, 2013 and March 6, 2013.

Mr. Lester stated that he was convicted for possession of a schedule III narcotic. He is currently off of probation. Commissioners asked Mr. Lester if he had appeared before the Commission before and noted that there were numerous times that he did not show up at court for his court hearings. He stated that he did not have a probation officer because he was on unsupervised probation. He stated that his probation was terminated by judge on order in April 2013 although he did not supply the Commission with this documentation. It was noted by Commissioner Trapani that Mr. Lester had been disbarred as an attorney in 2010.

After further questions from the Commission, Commissioner Trapani made motion, seconded by Commissioner Bono, to deny Mr. Lester's request to obtain a real estate license. After a roll call vote, motion carried with Commissioner Carraway voting in opposition. Commissioners Trapani and Flavin explained that they denied Mr. Lester's request due to the lack of responsibility he displayed as an attorney in not appearing before his own hearing as well as the fact that was disbarred as an attorney.

5. Kendall Morris – Mr. Morris appeared before the Commission in connection with his request to obtain his real estate license.

In 1994, Mr. Morris pled guilty to theft of an automobile. For this offense, he received five years probation. In 1996, Mr. Morris pled guilty to possession of cocaine. Under the Multiple Bill Statute, he received 30 months of hard labor to run concurrently with any other sentence. Mr. Morris was unable to provide court minutes of these convictions because records were destroyed as a result of Hurricane Katrina. In 1999, Mr. Morris was released from the Department of Corrections and placed on parole for a period of two years. On March 23, 2000, the court minutes state Mr. Morris was guilty of possession of cocaine and guilty of attempted possession of cocaine by a convicted felon. Mr. Morris states he pled guilty to possession of a firearm. The court minutes do not reflect the charges of possession of a firearm whereas a letter from the probation office does state so. For Count 1, he received five years hard labor with credit for time served. For Count 2, he received seven years and six months hard labor with credit for time served to run concurrently with any other sentence. On September 26, 2004, Mr. Morris was released by Diminution of Sentence. On March 26, 2007, Mr. Morris completed his period of supervision.

Mr. Morris explained the sequence of events that led to his convictions and stated that he took responsibility for his actions of that time. He stated that he has cleaned up his life, grown up, and is starting over. He has since obtained a Bachelors Degree and currently works at Sears and Braxton & Watts. If allowed the opportunity, he plans to make real estate a full time career while keeping his position at Sears part-time.

After further questions from the Commission, Commissioner Flavin made motion, seconded by Commissioner Burns, to allow Mr. Morris to obtain his salesperson license. After a roll call vote, motion carried without opposition.

6. Eldridge Thompson – Mr. Thompson appeared before the Commission in connection with his request to obtain his real estate license.

On June 2, 2010, Mr. Thompson pled guilty to aggravated assault. For this offense, he was sentenced to two years confinement and given credit for time served. On October 22, 2011, Mr. Thompson was discharged.

Mr. Thompson explained that on October 9, 2009, he was attacked while in the bedroom that he shared with his girlfriend by her brother. He attempted to leave the room and the apartment at which time the man grabbed him from behind and brought him down to the floor. He stated that he had pinched nerves in his neck and shoulder as a result of an automobile accident and the attack caused him excruciating pain. At that point, he was eye level with a steak knife left on a table and he grabbed it and stabbed the brother in his shoulder and then in his ribs as he wouldn't let him go. At that point, he ran out of the apartment because he had seen the man with a handgun earlier. He feels that he was attacked because the man knew that his mother and father had just passed away and wanted money. The man was a heroin and crack addict. He hired an attorney to defend him and was told because the knife punctured the man's lungs; it was considered excessive force and not self defense. He pled guilty, went to trial, and served his time. Since that time, Mr. Thompson has purchased a home and is currently working as an assistant at Jim Simmons Realty, LLC.

After further questions from the Commission, Commissioner Noles made motion, seconded by Commissioner Flavin, to allow Mr. Thompson to obtain his salesperson license. After a roll call vote, motion carried without opposition.

7. Jeremy Frosch – Mr. Frosch appeared before the Louisiana Real Estate Commission in connection with his request to sit for the real estate exam.

On November 30, 2009, Mr. Frosch pled guilty to attempted second degree kidnapping. For this offense, the court sentenced Mr. Frosch to five (5) years hard labor, suspending all but one (1) year. Upon release, the court placed him on probation for a period of five (5) years. Mr. Frosch's probation is scheduled to expire on November 30, 2015 for this offense. On May 6, 2010, Mr. Frosch pled guilty under the provisions of Article 893 to exploitation of the infirmed. For this offense, the court placed Mr. Frosch on probation for a period of five (5) years. Mr. Frosch's probation is scheduled to expire on May 6, 2015 for this offense.

Mr. Frosch explained his reason for re-appearing was because he wants to give his daughters a better life. Since he last appeared, he has obtained a Class A license and a Hazmat license in December 2012. He did sit for the National Mortgage Lender's Association test and passed but he cannot become licensed until 2017 due to his conviction. He explained that the conviction stemmed from what he feels was a made up story by his wife to gain leverage in their divorce case. The doctor even told the police that his ex-wife had no physical harm noted after her checkup from the alleged rape and kidnapping. He is currently driving limousines and trucks for a living.

Commissioner Flavin made motion, seconded by Commissioner Trapani, to enter into executive session. Motion carried without opposition.

#### **EXECUTIVE SESSION**

Commissioner Flavin made motion, seconded by Commissioner Burns, to exit executive session and return to the regular business meeting.

After answering further questions from the Commissioners, Commissioner Trapani made motion, seconded by Commissioner Bono, to deny Mr. Frosch's request to obtain a license until such time that his probation is complete. After a roll call vote, motion carried with Commissioners Carraway and Gosslee voting in opposition. Commissioner Stafford suggested that Mr. Frosch attempt to contact the courts and have his probation period reduced.

## **COMMITTEE REPORTS:**

1. Budget – Commissioner Stafford presented the budget report and noted that the year will be finished in the black. It was noted that the next two years should be finishing in the black as well. Ms. Yu presented the Commission with a revised budget for 2012-2013, the budget for 2013-2014, and the projected budget for 2014-2015. After discussion, Commissioner Stafford made motion, seconded by Commissioner Noles to approve the revised budget for 2012-2013, the budget for 2013-2014, and the projected budget for 2014-2015. Motion carried without opposition.

(Attachment A)
2. Education/Research/Publication – Commissioner Caffery reported post licensing course development is nearing an end and should be available for review in the next month.
3. Legal/Legislative/Timeshare – No report.
4. Standardized Forms – Commissioner Carraway presented the Commission with recent legislation, HB 494, which was passed as a result of the sinkhole issue in Bayou Corne. The bill requires that the property disclosure form be updated to include an additional disclosure of whether or not a cavity created within a salt stock by dissolution with water lies underneath the property. It also requires a seller to disclose whether or not a solution mining injection well is located with 2,640 feet of the property. Ms. Edwards provided sample language that could be included in the disclosure. It puts the burden of proof on the seller when they may know nothing of this. Mr. Unangst stated that he spoke with Norman Morris and Marx Sterbcow. The second problem is potential liability of the licensee. Mr. Morris gave background on the passing by the legislature. He stated that the intent was to only add a Yes/No/Not Known question to the disclosure. It was not intended to add a half page of language to the form. He feels that the question can be added under the Miscellaneous Section of the disclosure form. He stated that he will obtain a letter from Karen St. Romain, the author of the bill, to clarify her intent of the law. The matter was referred to a July meeting of the Standardized Forms Committee. Mr. Morris will then have more information from Ms. St. Romain as well as options for possible language that everyone can agree on. Commissioner Carraway questioned if this item could be added as an E & O rider to cover liability. Mr. Unangst stated that it most likely could be added but questioned as to whether it would be practical.
5. Strategic Planning – Commissioner Gosslee stated that emails have been exchanged and they are currently working on a date to meet in the fall. They are hopeful to have a recommendation for Strategic Plan for January 1<sup>st</sup>, 2014.
6. Errors & Omissions – No report.

## **DIRECTORS REPORT:**

Mr. Unangst reported that Facility Planning and Control have come to agreements with the architect and engineers to have repairs completed on the building. During their walkthroughs with the sheetrock contractor, the contractor found that there was improper bracing on the sheetrock through the building. Destructive testing was completed to verify his claims. The scope of work is now being revised. A suit will also be filed by FP&C and the Office of General Counsel to protect the prescriptive period of the building.

Mr. Unangst stated that the Legislative Auditors are at the office this week beginning their yearly audit. A final report will be available in August or September. Mr. Unangst noted that administration has been successful in reducing personnel costs. A new Public Information Officer position will be filled in the upcoming months. Also, there will be 4% merit increases for those staff members that are eligible on October 1<sup>st</sup>. Retirement contributions have increased by 3%.

Mr. Unangst introduced Todd Dean and Darrin Heltz of Training Current to the Commission. Mr. Dean and Mr. Heltz developed the e-learning video that was recently posted to the website and distributed that explained the changes to the mandatory agreement that were effective June 1<sup>st</sup>. Mr. Dean spoke about his and Mr. Heltz's background in the real estate industry and how there is a strong need for e-learning. He stated that the beauty of the e-learning is the consistency, unlike live classes. He discussed options for future e-learning videos with the Commission and explained that costs would be low if subject matter experts were not involved in the development. Commissioner Trapani suggested that

the videos be added to the Strategic Plan. He would like to see videos pertaining to laws/rules and leave salesperson training up to the REALTORS Association and brokers. Commissioners congratulated Mr. Unangst, Mr. Dean, and Mr. Heltz for their work on the video and hope to see more in the future.

**PUBLIC COMMENT:**

None

**UNFINISHED BUSINESS:**

Although not official Commission business, Commissioners congratulated Commissioner Trapani on his achievement of REALTOR of the year for the state of Louisiana.

**NEW BUSINESS:**

Commissioner Trapani made motion, seconded by Commissioner Flavin, to approve all Stipulation and Consent Orders as presented. Motion carried without opposition.

Mr. Unangst informed the Commission that the Continuing Education Audit is underway and letters are being sent out to offenders. Many of the cases may be cleaned up by providing missing certificates.

Commissioner Flavin welcomed new Commissioner Evelyn Wolford.

Commissioner Gosslee questioned which portion of the law/rules allows for fining on post-licensing deficiencies. Mr. Maynor stated that he would get with Commissioner Gosslee after the meeting to discuss.

Commissioner Gosslee presented the Commission with SR 128 which involves home inspectors giving the life expectancy of appliances as well as mold in the home. Louisiana REALTORS will monitor this issue along with Commissioner Gosslee.

There being no further business, Commissioner Trapani made motion, seconded by Commissioner Burns, to adjourn. Motion passed without opposition.

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PATRICK T. CAFFERY, JR., CHAIRMAN

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JAMES D. GOSSLEE, SECRETARY