

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE COMMISSION

November 17, 2016

The Louisiana Real Estate Commission held its regular meeting on Thursday, November 17, 2016, at 10:00 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:

COMMITTEE

Lynda Nugent Smith, Chair
Evelyn Wolford, Vice Chair
Steven Hebert, Secretary
Lacy Baaheth
Jeffrey Donnes
Kelly Ducote
Eloise Gauthier
Deanna Norman
Richman Reinauer
Patrick Roberts, Jr.

STAFF

Bruce Unangst, Executive Director
Arlene C. Edwards, Legal Counsel
Summer Mire
Ryan Shaw
Mark Gremillion
Robert Maynor
Chad Mayo
Debbie DeFrates
Dusty Evans
Telly Hollis
Malissa Fowler
Nikki Senegal
Sara Wheeler
Jenny Yu

GUESTS

Norman Morris – Louisiana REALTORS®
Frank Trapani – Louisiana REALTORS®
Amy Fennell – Louisiana REALTORS®
Michael Wong – Louisiana REALTORS®

Patty McMurray - Baker Donelson
Burk Baker – Burk Baker School of Real Estate and Appraisal
Tara Demari – Century 21 Bessette Realty
Tobie Hodgkins – Century 21 Bessette Realty

Commissioner Gosslee was unable to attend the meeting.

Commissioner Nugent Smith led the Invocation; Commissioner Hebert led the Pledge of Allegiance.

FORMAL ADJUDICATORY HEARING:

CASE NO. 2015-1387 LREC VS. WAYNE TURNER

See official transcript for complete hearing.

Commissioner Reinauer made motion, seconded by Commissioner Ducote, to accept Mr. Turner’s guilty pleas based on statements given today. Motion passed without opposition.

Commissioner Reinauer made motion, seconded by Commissioner Ducote, to censure Mr. Turner and require that he take a 30-hour broker responsibility course in addition to the 12-hour continuing education requirement and pay a fine of \$1,500 within 90 days of this hearing. Motion passed without opposition.

MINUTES

Commissioner Wolford requested that the Director’s Report from October 20, 2016 be amended for clarification regarding the continuing education audit (page 4, paragraph 3).

Commissioner Wolford made motion, seconded by Commissioner Gauthier, to approve the amended minutes of the meeting of October 20, 2016. Motion passed without opposition.

COMMITTEE REPORTS:

1. Budget – Commissioner Reinauer reviewed the budget report with Commissioners. He brought the Commissioners attention to the revenue being down because all renewals have not yet been paid. He stated that actuals from last year and this year are in line with each other. He pointed out that the licensee count is trending upward.

(Attachment A)

2. Education/Research/Publication – Commissioner Ducote stated that the morning meeting of the Education Committee resulted in the decision to change rule 907 regarding receiving duplicate credit for courses. She stated that the new rule will prohibit a licensee from receiving duplicate

credit for the mandatory course, regardless of whether the course was taken from multiple vendors. The effective date of the rule will be January 1, 2018.

She stated that the committee also discussed the combination of pre and post licensing courses and that the Commissioners would reach out to their constituents for input and discussion at next month's meeting.

Commissioner Ducote made motion, seconded by Commissioner Gauthier to accept the recommendations of the Education Committee. Motion passed without opposition.

3. Legal/Legislative/Timeshare – Commissioner Wolford stated that the Commission received advertising guidelines from Ms. Edwards and Ms. McMurray and that she was very happy with what was put together. She would like to see any suggested tweaks by the commissioners to be ready for the December meeting. Commissioner Hebert questioned if there needed to be clarification regarding what constitutes a broker's name. He stated that some brokers use their brokerage name as their own. Ms. McMurray stated that this could be clarified in the notes. Commissioner Ducote asked if this document was being offered as a tool or if it was being mandated. Commissioner Wolford stated that it could be handed out at the upcoming broker mandatory course and that brokers should be held responsible for the advertising of their sponsored licensees. Mr. Trapani stated that a franchise name must also use their company name. Mr. Hebert agreed, but stated that the logo can suffice as long as the name of the company is included.

Ms. Edwards stated that she would work with staff to continue to add notes to make the guidelines more clear. She stated that these will not be mandated, but used as a tool to help the investigative staff as well as licensees. Commissioner Hebert asked if these guidelines will make it easier for the investigative staff to issue citations. Mr. Unangst stated that he thinks these guidelines as well as specific examples could be helpful to the investigative staff. He stated that the checklist as well as visual guidelines will give brokers a presumption of compliance. Commissioner Hebert stated that during this long discussion of advertising rules he was sent multiple examples that he believed were in compliance with the rules, but now using these guidelines they would be not in compliance. He asked if this will give the investigators more ability to charge violators. Ms. Edwards stated that the checklist and guidelines will give the investigators a more defined list of what the commission wants in the enforcement of the rule.

Mr. Unangst stated that Mr. Maynor has drafted a new chapter for the rules on broker responsibility, which will be helpful in ensuring that the broker is held responsible for supervising their agents. He stated that the Commission should review that language for future discussion because it is a large part of fixing the advertising issues.

Mr. Unangst also stated that the Commissioners were given the current fine schedule and recommended that they consider increasing some of the fines to promote compliance.

Commissioner Reinauer asked how the language "font too small" can be enforced. Mr. Maynor stated that the guidelines document will give his investigators more clarity to enforce the advertising rules. Mr. Unangst stated that the document the Commissioners received today is a

draft that will be further developed before being approved and distributed. He stated that licensees will have the right to come before the Commission to argue if they are fined.

Commissioner Reinauer stated that he appreciates the work that has been done on the guidelines, but that he believes that the document will get lost in offices and that no one will follow it because it is a guideline and not a rule or law. Commissioner Wolford disagreed. She stated that this should be done like the mandatory forms, which are revisited often to keep up with industry changes.

Commissioner Wolford made motion, seconded by Commissioner Roberts, to have any suggested changes to the advertising checklist and guidelines by the December meeting so that it can be submitted with broker responsibility courses at the first of the year. After discussion, motion carried with Commissioner Reinauer voting in opposition.

Commissioner Donnes stated that he does not believe that this motion will do enough to satisfy what his original motion aimed to do. Commissioner Norman stated that the Commission needed to give something a try instead of continuing to argue the topic.

Mr. Morris stated that he agreed with Commissioner Norman that it is better to operate under current rules instead of trying to change the rule to something that may cost the Commission its ability to regulate advertising.

Mr. Unangst requested that staff be given an opportunity to polish the draft of the guidelines and checklist before next month's meeting so that the Commission can vote on this issue.

Ms. Edwards suggested that the cases be sent to an informal hearing instead of the cite and fine process and require brokers to participate in the informal hearing.

Mr. Morris requested that the Commission move forward with motion so that the information can be included in classes early in the year.

(Attachments B & C)

Commissioner Wolford stated that the rule language voted on by the Commission over the summer regarding Chapter 305 will be final effective November 20, 2016. She read the language: "applicants for an initial individual real estate broker license shall provide proof that they have been licensed as an active real estate licensee for four years, with two of the four years occurring immediately preceding submission of a broker license application."

4. Standardized Forms – Commissioner Wolford requested that the 2015 and 2017 forms swap places on the website so that 2017 is at the top of the page.
5. Strategic Planning – No report.
6. Errors & Omissions – Commissioner Norman stated that the 2017 group policy letter was sent out to all licensees.
7. Technology – Commissioner Hebert stated an update would be given at the December meeting.

DIRECTORS REPORT:

Mr. Unangst requested that the Commissioners review the proposed broker responsibility rule chapter that was discussed in relation with the advertising guidelines. He would like the proposed rule to be discussed at the December meeting.

Chairman Nugent Smith requested that the proposed broker responsibility rule as well as the advertising guidelines and examples be re-emailed to all commissioners.

PUBLIC COMMENT:

None

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Commissioner Hebert made motion, seconded by Commissioner Wolford, to approve Stipulation & Consent Orders: Continuing Education Audit Cases (2nd Time CE Offenders). Motion passed without opposition.

(Attachment D)

EXECUTIVE SESSION

None

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

LYNDA NUGENT SMITH, CHAIRMAN

STEVEN HEBERT, SECRETARY