

The Oklahoma Real Estate
Commission Comment

Official Publication of the
Oklahoma Real Estate Commission
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THE COMMISSION

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Pete Galbraith..... Sapulpa
Charles Barnes..... Midwest City
Randy Saunier..... McAlester
Anne M. Woody, Executive Director.....Staff

Address all communications to the
Commission Office

“Use your zip code and ours
when you write to us”

BY ORDER OF THE COMMISSION
DISCIPLINARY ACTIONS AS OF
MARCH 2008

MAY 2008

C-2007-043 – Easley Enterprises Incorporated, Phillip J. Easley (Bm), and Eric Gordon Thompson (Sa) – Midwest City: Violations by Respondent Eric G. Thompson: Title 59 O.S. §858-312, Subsection 8 and Rule 605:10-17-4(15), in that he discouraged the complainant from obtaining an inspection on property that the complainant was purchasing.

Eric G. Thompson consented to paying an administrative fine of Two Hundred Dollars (\$200.00). The case against Easley Enterprises Incorporated and Phillip J. Easley was closed.

C-2007-071 – Jimmie Dwayne Basler (Bp) – Claremore: Violations by Respondent Basler: Title 59 O.S. §858-312(14) and Rule 605:10-17-4(12), in that he paid an unlicensed person for activities that require an active real estate license.

Jimmie D. Basler consented to an amended agreement, paying an administrative fine of One Thousand Dollars (\$1,000.00), a six (6) month suspension of his broker’s license, with the imposition of the suspension suspended, and a formal reprimand.

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Chairman’s Corner

Greetings fellow licensees,

Please allow me to introduce myself. I am Mike Cassidy and I have been selected to serve as the Chairman of the Oklahoma Real Estate Commission for 2008 and 2009.



Mike Cassidy

As we are all aware, our industry as well as the nation’s economy has been facing many challenges recently. Although we seem to be better off in Oklahoma than in other parts of the country, we are still facing our share of economic difficulty. However, challenges always present new opportunities, and with opportunities come the chance for advancement.

Now more than ever, education and high standards of ethical behavior have never been so crucial, as the public needs to be able to depend on knowledgeable, principled real estate professionals. We are all in this together and unethical behavior on the part of any licensee reflects negatively on our entire industry.

The staff of the Oklahoma Real Estate Commission is dedicated to providing more educational opportunities, support resources and guidance in regulation compliance to our licensees. I am proud to be part of this fine organization and look forward to serving as Commission Chairman.

Sincerely,
Mike Cassidy
Chairman, Oklahoma Real Estate Commission

Commission Elects Officers for FY 2009



Martin VanMeter

At the regularly scheduled Commission meeting on August 13, 2008, the Commissioners voted into office Mr. Mike Cassidy, broker member of Oklahoma City, to be Chairman and Mr. Martin VanMeter, broker member of Durant, to be Vice-Chairman. Congratulations gentlemen.

Commission's Executive Director Elected to International Position

Oklahoma City, Oklahoma (October 20) – Anne M. Woody, the Executive Director of the Oklahoma Real Estate Commission, was inducted as President of the Association of Real Estate License Law Officials (ARELLO) at a ceremony held during the organization's annual conference in Indianapolis, Indiana.

Ms. Woody began her career at the Oklahoma Real Estate Commission in 1973, and was appointed Executive Director in 2001. She has been a member of ARELLO for 22 years, and throughout that period of time served on numerous committees, served four years on the Board of Director's and most recently, held the positions of Treasurer and President-elect.

ARELLO is an international organization which supports jurisdictions in the administration and enforcement of real estate license laws to promote public protection. Currently, ARELLO's regulatory membership base consists of approximately 1,000 members that regulate 3,500,000 licensees world-wide. ARELLO provides numerous resources that regulatory agencies use such as an international licensee database (ARELLO.com) which allows consumers and co-brokers to verify that the person they are working with is in fact licensed to conduct real estate activities and receive a real estate commission. Another important resource is the disciplinary action databank which consists



Anne Woody

of disciplines imposed by real estate regulatory agencies. This allows other jurisdictions the opportunity to check an international repository of disciplines prior to licensing a person in their jurisdiction. Other services provided to real estate regulators are programs such as examination accreditation, Certified Real Estate Investigator (CREI) Designation, Education Content Certification, Distance Education Certification, and the newest service available the Certified Distance Education Instructor. ARELLO's website is located at arello.org.

Ms. Woody's focus as President of ARELLO will be to further efforts in license reciprocity with other jurisdictions in the United States, Canada and abroad, improve and increase member services and assist emerging regulatory bodies with model licensing laws and other ARELLO developed resources and services.

Legal Advice:

.....from the Assistant Attorney General

Question: Can an administrative penalty or fine imposed by the Real Estate Commission against an unlicensed individual for performing licensable activities without a license be discharged in bankruptcy by the unlicensed individual?

Answer: No. Fines, penalties, and forfeitures imposed by governmental units are nondischargeable to the extent they do not represent "compensation for actual pecuniary loss."

.....from HUD.gov (Prohibition of Seller Funded Down Payment Assistance)

Question: I understand Congress passed a law against seller-funded down-payment assistance programs. What is the effective date for this new law?

Answer: The prohibition against seller-funded down-payment assistance applies to those loans for which the lender has issued credit approval for the borrower on or after October 1, 2008.

Question: How is credit approval being defined in relation to seller-funded down-payment assistance programs?



Answer: Credit approval is defined as those loans scored through FHA's Mortgage Scorecard TOTAL as Accept/Approve on or after October 1, 2008. For those loans manually underwritten, credit approval is defined as the date the Direct Endorsement Underwriter approves the loan, as indicated by the DE signature on the MCAW or Loan Transmittal form. For more information on this subject, go to <http://faq.fha.gov> and type in key words or a topic you are searching, i.e., Seller Funded Down Payment Assistance, etc.

New Law Effective November 1, 2008

Uniform Real Property Electronic Recording Act

Governor Brad Henry signed House Bill 2587 into law on June 2, 2008, making Oklahoma the 20th state to enact the Uniform Real Property Electronic Recording Act (URPERA). The Act became effective November 1, 2008. Under URPERA an electronic signature or acknowledgement satisfies any requirement that the document contain a signature or acknowledgement. The State Archives and Records Commission is charged, under the law, with adopting standards necessary to implement URPERA, but has not yet promulgated such standards.

Following is the language of HB2587: PREAMBLE- An Act relating to conveyances; creating the Uniform Real Property Electronic Recording Act; providing short title; defining terms; authorizing and providing validity of electronic documents; defining term; requiring county clerk to comply with certain standards; granting the county clerk certain powers relating to the recording of documents; requiring the Archives and Records Commission to adopt standards for implementation of the Uniform Real Property Electronic Recording Act; providing for uniformity of application and construction; providing relation to Electronic Signatures in Global and National Commerce Act; amending 16 O.S. 2001, Section 28, which relates to requirements for instruments affecting the title to land; providing authorization for electronic filings pursuant to the Uniform Real Property Electronic Recording Act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86.1 of Title 16, unless there is created a duplication in numbering, reads as follows:

SHORT TITLE. Sections 1 through 7 of this act shall be known and may be cited as the "Uniform Real Property Electronic Recording Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86.2 of Title 16, unless there is created a duplication in numbering, reads as follows:

DEFINITIONS. In the Uniform Real Property Electronic Recording Act:

- (1) "Document" means information that is:
 - (A) inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and
 - (B) eligible to be recorded in the land records maintained by the county clerk.
- (2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (3) "Electronic document" means a document that is received by the county clerk in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86.3 of Title 16, unless there is created a duplication in numbering, reads as follows:

VALIDITY OF ELECTRONIC DOCUMENTS.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying the Uniform Real Property Electronic Recording Act.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86.4 of Title 16, unless there is created a duplication in numbering, reads as follows:

RECORDING OF DOCUMENTS.

(a) In this section, "paper document" means a document that is received by the county clerk in a form that is not electronic.

(b) A county clerk:

- (1) Who implements any of the functions listed in this section shall do so in compliance with standards established by the Archives and Records Commission;
- (2) May receive, index, store, archive, and transmit electronic documents;
- (3) May provide for access to, and for search and retrieval of, documents and information by electronic means;
- (4) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(5) May convert paper documents accepted for recording into electronic form;

(6) May convert into electronic form information recorded before the county clerk began to record electronic documents;

(7) May accept electronically any fee that the county clerk is authorized to collect; and

(8) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86.5 of Title 16, unless there is created a duplication in numbering, reads as follows:

ADMINISTRATION AND STANDARDS.

(a) The Archives and Records Commission shall adopt standards to implement the Uniform Real Property Electronic Recording Act.

(b) To keep the standards and practices of county clerks in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially the Uniform Real Property Electronic Recording Act and to keep the technology used by county clerks in this state compatible with technology used by recording offices in other jurisdictions that enact substantially the Uniform Real Property Electronic Recording Act, the Archives and Records Commission, so far as is consistent with the purposes, policies, and provisions of the Uniform Real Property Electronic Recording Act, in adopting, amending, and repealing standards shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;

(3) The views of interested persons and governmental officials and entities;

(4) The needs of counties of varying size, population, and resources; and

(5) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86.6 of Title 16, unless there is created a duplication in numbering, reads as follows:

UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing the Uniform Real Property Electronic Recording Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86.7 of Title 16, unless there is created a duplication in numbering, reads as follows:

RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. The Uniform Real Property Electronic Recording Act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

SECTION 8. AMENDATORY 16 O.S. 2001, Section 28, is amended to read as follows:

Section 28. A. No instrument affecting the title to real estate shall be filed for record or recorded unless plainly printed, typed, or handwritten or partly printed, partly typed, or partly handwritten, and the instrument is an original or a certified copy of an original instrument, clearly legible in the English language.

B. The provisions of subsection A of this section shall not prevent the filing of documents electronically pursuant to the Uniform Real Property Electronic Recording Act.

SECTION 9. This act shall become effective November 1, 2008.

Renew Your License on Time

IMPORTANT INFORMATION FROM THE LICENSING DIVISION—Allowing a license to lapse or failing to complete the required continuing education can be very costly.

Managing Broker or Principal Broker—If you allow your license to lapse or that of your entity (corporation, association, partnership, branch office) you will cause all license(s) that are associated with you or our entity to be placed on inactive status.

Further, if you do not complete your continuing education by your license expiration date, all license(s) that are associated with you or your entity will be placed on inactive status.

Once an entity or principal broker license has lapsed or been placed inactive, the Commission requires new forms to be completed and fees for all associates and branch offices.

Note: Brokers, you can renew your license, and that of your entity, online at www.orec.ok.gov/renewal. Entities do not have a continuing education requirement to meet so there is no reason to delay the renewal; however, before a managing broker or the associates renew their license online, their continuing education requirement must be complete for the license renewal to process. All licensees should complete their continuing education early so that they can take advantage of the online license renewal system and thereby avoid costly reinstatement and/or reactivation fees.

Court Decisions That Have an Affect on Your Activities

Agent can be sued for referring buyer to a builder

(Nashville, Tenn.) – A real estate agent who said she merely referred a home buying couple to a builder “who does good work” has been told she will have to participate in a lawsuit that alleges she misrepresented the property where the couple ultimately had their home built.

In the case of Kenneth Pettitt vs. Curtis Williams Construction (No. M2007-01530-COA-R2-CV. Tenn. Appls. 2008). Real estate agent Freda Jones said she should be removed from the legal action because she played no role in the transaction between the buyers (the Pettitts) and the builder (Williams).

According to court records, the Pettitts contacted Jones and asked her to show them a home they had seen in a new homes tract under development. The Pettitts did not buy that home, but Jones did refer them to Williams, the builder in the development.

Williams and the Pettitts agreed on a home location and design. After the home was built, however, the Pettitts discovered water drainage and other environmental problems.

The Pettitts sued Williams, and Jones.

The lower court ruled, however, that Jones should not be part of the lawsuit because she did not participate in the transaction and collected no money from the deal.

The Pettitts appealed, and received a judgment from the high court stating that Jones could be sued in the transaction.

The high court noted that Jones was the listing agent for the development and had represented Williams in the sale of other homes. The high court also said that by referring the Pettitts to Williams, the argument could be made that she represented his interest, regardless of whether she was paid.

The high court said it felt there was sufficient evidence to warrant a trial.

Reprinted from the *Agency Law Quarterly/Real Estate Intelligence Report*, August 2008

Failure to disclose mold brings hefty fines

(Charleston, S.C.) – The Prudential Carolina real estate company has been ordered to pay \$150,000 in damages to home buyers who say they were not provided mold disclosure forms.

Buyers Dana and Daniella Winters filed suit against Prudential Carolina seeking \$1.5 million in damages, contending Prudential agent Barbara Daniels had not alerted them to disclosure documents indicating there was mold in the home.

Attorneys for Prudential Carolina said the home had been sold “as is” and that the buyers were aware of the mold issue.

A jury awarded the Winters \$50,000 in actual damages and \$75,000 in punitive damages. Reprinted from the *Agency Law Quarterly/Real Estate Intelligence Report*, August 2008

Emergency Rules Adopted by the Commission

Following are emergency rules that take effect on the respective dates as noted due to the passage of HB 2564 last legislative session which requires a nonresident broker to take and successfully pass the State specific portion of the examination prior to obtaining a license in this State and the Commission outsourcing the real estate examination effective January 1, 2009.

Underlined language is new language and hyphenated through language is being deleted. The three asterisks indicate that other existing language was not changed. If you have questions, please contact the Commission.

Effective November 1, 2008

605:10-7-9. Nonresident licensing

(a) **Nonresident licensed in another state.** A nonresident applicant may apply to the Commission for a license to operate as a nonresident by submitting all appropriate documents as required by the Commission and furnish evidence that the applicant possesses a current active license in their resident state or another state in which the applicant has qualified for a license.

All nonresidents shall be required to complete the appropriate examination as required by the Commission. If, in the opinion of the Commission, there is question as to the competence of the nonresident applicant, such individual may shall be required to successfully complete additional educational courses and/or the Oklahoma examination. No inactive license experience may be credited to qualify under this Section. The Commission, at its discretion, may issue a nonresident license if, in the opinion of the Commission, such nonresident has qualified and maintains a license in another state and meets the following qualifications:

(1) A nonresident applicant who has been actively licensed as a sales associate or broker respectively for a minimum of two (2) years out of the previous five (5) years.

(A) A nonresident applicant that applies under this paragraph must complete and submit the following:

(i) Appropriate application along with application fee.

(ii) Certificate of licensure from the state(s) in which the applicant has held and/or currently holds a license.

(iii) Examination fee and successfully complete the state law portion of the examination.

(B) Upon the Commission granting approval to the nonresident applicant for licensure in this state, the applicant must complete and submit the following:

- (i) Appropriate license application form(s) along with license and education and recovery fund fees.
- (ii) Consent for service of jurisdiction form.

(2) A nonresident applicant who has been actively licensed less than two (2) years as a sales associate or broker respectively out of the previous five (5) years must successfully complete the appropriate examination.

(A) A nonresident applicant applying under this paragraph must complete and submit the following:

- (i) Appropriate application ~~along with examination fee.~~
- (ii) Certificate of licensure from the state(s) in which the applicant has held and/or currently holds a license.
- (iii) Successfully Examination fee and successfully complete the entire appropriate examination.

(B) Upon the Commission granting approval to the nonresident applicant for licensure in this state, the applicant must complete and submit the following:

- (i) Appropriate license application form(s) along with license and education and recovery fund fees.
- (ii) Consent for service of jurisdiction form.

(b) **Nonresident agreement.** The Commission may enter into a nonresident agreement with another state and thereby qualify actively licensed nonresident applicants for licensing in this state provided the Commission determines that the educational and experience requirements of the other state are equivalent or equal to this state.

(c) **Nonresident applicant that is inactive or unlicensed in another state.** A nonresident applicant that holds an inactive license in another state or an applicant who is unlicensed in another state may apply to the Commission for a license to operate as a nonresident provisional sales associate or broker by submitting all appropriate documents and successfully completing all requirements as required by the Commission.

(1) The nonresident applicant must complete and submit the following:

- (A) Appropriate application ~~along with examination fee.~~
- (B) Qualify as an original applicant by submitting proof of appropriate required education.
- (C) Successfully Examination fee and successfully complete the entire appropriate examination.
- (D) If applicable, certificate of licensure from the state(s) in which the applicant has held a license.

(2) Upon the Commission granting approval to the nonresident applicant for licensure in this state, the applicant must complete and submit the following:

- (A) Appropriate license application form(s) along with license and education and recovery fund fees.
- (B) Consent for service of jurisdiction form.

* * *

605:10-7-10. Resident applicants currently or previously licensed in other states

(a) **Requirements.** In order to qualify under previously licensed procedures, an applicant must complete and submit all appropriate documents as required by the Commission and furnish evidence that the applicant possesses or has possessed a license in good standing in another state(s). No inactive license experience may be credited to qualify under this Section. The Commission, at its discretion, may issue the applicant a license if such previously licensed applicant meets all of the requirements of either paragraphs (1), (2), (3) or (4) of this subsection:

(1) If a nonresident agreement exists between Oklahoma and the respective state in which the applicant qualified for a license, the Commission shall qualify the licensed applicant through the nonresident agreement. In order to qualify under this paragraph an individual must furnish evidence that the license from the former state has not been inactive more than six (6) months prior to application to this state.

(A) An applicant applying under this paragraph must complete and submit the following:

- (i) Appropriate application ~~along with application fee.~~
- (ii) License certification from the state(s) in which the applicant has held or currently holds a license.
- (iii) Examination fee and successfully complete the state law portion of the examination.

(B) Upon the Commission granting approval to the applicant for licensure in this state, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a sales associate, broker associate or broker license.

(2) If a nonresident agreement does not exist, the applicant shall be required to furnish evidence of two (2) years of active experience respectively as a sales associate or broker out of the previous five (5) years. In order to qualify under this paragraph an individual must furnish evidence that the license from the former state has not been inactive more than six (6) months prior to application to this state.

(A) An applicant applying under this paragraph must complete and submit the following:

- (i) Appropriate application ~~along with application fee.~~
- (ii) License certification from the state(s) in which the applicant has held or currently holds a license.
- (iii) Examination fee and successfully complete the state law portion of the examination.

(B) Upon the Commission granting approval to the applicant for licensure in this state, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a sales associate, broker associate or broker license.

(3) An applicant who does not possess the required two (2) years active experience out of the previous five (5) years respectively as a sales associate or broker, or an applicant who does not meet all of the requirements of either paragraphs (1) or (2) of this subsection, but obtained the appropriate license in the other state within the past five (5) years, shall be required to take and successfully complete the entire appropriate examination.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application along with examination fee.

(ii) License certification from the state(s) in which the applicant has held or currently holds a license.

(iii) ~~Successfully~~ Examination fee and successfully complete the entire appropriate examination.

(B) Upon the Commission granting approval to the applicant for licensure in this state, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a sales associate, broker associate or broker license.

(4) An applicant who has not been actively licensed during any portion of the previous five (5) years in the other state shall be regarded as an original applicant; however, if an applicant successfully completed the appropriate real estate course approved in another state for real estate licensure and such course's duration is equivalent to Oklahoma's hourly course requirements, the applicant may be granted to sit for the entire appropriate examination and shall be regarded as an original applicant.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application along with examination fee.

(ii) License certification from the state(s) in which the applicant has held or currently holds a license.

(iii) Qualify as an original applicant by submitting appropriate required education.

(iv) ~~Successfully~~ complete the entire appropriate examination.

(B) Upon the Commission granting approval to the applicant for licensure in this state, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a provisional sales associate, broker associate or broker license.

(b) May be required to submit to additional requirements. If, in the opinion of the Commission, there is question as to the competence of the previously licensed applicant, such individual may be required to submit to additional educational courses and/or the Oklahoma examination.

(c) Application requirements. Any applicant seeking to transfer his or her license to Oklahoma from another state must pay the required examination and regular license fee, whether or not the examination from the other state is accepted for substitution. Prior to the issuance of any license, the applicant must file with the Commission a certificate of licensure from the state(s) in which the applicant has held or currently holds a license. The certificate of licensure shall be valid for sixty (60) days from date of issuance. No inactive license experience may be credited to qualify under this Section. Such approved application shall be valid for ninety (90) days.

605:10-15-4. Residential Property Condition Disclosure Act forms

(a) Development and amendment of forms. In accordance with Oklahoma Statutes, Title 60, Section 833 the Commission shall develop and amend by rule the forms for the Residential Property Condition Disclosure Statement and Residential Property Condition Disclaimer Statement. ~~Effective November 1, 2003~~ July 11, 2008 the disclosure statement is amended and all disclosure forms executed prior to ~~November 1, 2003~~ July 11, 2008 will remain in force and valid until expiration of the 180 days from the date noted thereon.

* * *

Effective January 1, 2009

605:10-3-5. Examinations

(a) Applicant must appear in person. When an application for examination has been submitted to the Commission, the applicant shall be required to appear in person, at a time and place to be designated by the Commission, and answer questions based on the required subject matter as prescribed elsewhere in the rules of this Chapter. Unless otherwise directed by the Commission, all examinations will be conducted in Oklahoma City. On and after August 1, 2001, each broker examination fee shall be Seventy-five Dollars (\$75.00) and each provisional sales associate/sales associate examination fee shall be Sixty Dollars (\$60.00).

~~(b) Computer and written examinations~~ Special Accommodations. ~~In the event a computer is available and in working order, the Commission shall administer the examination by computer. If an applicant requests to take the examination in a written form and a computer is available, a charge of Twenty Dollars (\$20.00) in addition to the regular examination fee will be assessed the applicant. In the event a written request is made by a handicapped individual, the Commission may waive the fee. In cases where special accommodations are necessary under the requirements of the Americans with Disabilities Act, applicants must notify the examination supplier in advance by submitting a written request, on a form prescribed by the Commission, describing the disability and necessary accommodations.~~

(c) Failure to pass examination. If an applicant fails to pass the examination prescribed by the Commission, the Commission may permit subsequent examinations upon receipt of a new examination fee for each examination to be attempted.

(d) **Applicant request to view failed examination.** An applicant who fails the examination may, within thirty (30) days of the date of the examination, personally visit the Commission office and view his or her has the option of reviewing their missed questions at the end of their examination. If, as a result of such viewing, the applicant is of the opinion incorrect grading was the cause for his or her receiving a failing grade, he or she may within ten (10) days request a review by the Commission of his or her examination. The purpose of such a review by the Commission shall be to determine whether or not such examination was correctly graded. An applicant may challenge the validity of any question(s) they identify as incorrectly graded. A challenge to a question that pertains to the Oklahoma law portion of the examination will be sent to the Commission by the examination supplier. A challenge to a question that pertains to the national portion will fall under the review policy of the examination supplier. In either case, both the examination supplier and/or the Commission shall have five (5) business days in which to review and issue a response to the applicant. Applicants will be allowed up to one (1) hour to review their exam and the applicant will not be allowed to test on the same day they review a failed examination. No notes, pencils, or electronic devices will be allowed during review nor will they be allowed to leave the examination area with the examination questions.

(e) **Application valid for one year.** The original examination application shall be valid for one (1) year from date of filing. A request to write an examination submitted more than one (1) year from the most recent original application filing must be accompanied by a new original application form. After such date, an applicant must complete a new original application form.

(f) **Passing percentile of examination.** A score of seventy-five percent (75%) or more shall be considered a passing grade on the broker or provisional sales associate/sales associate examination.

(g) **Validity period of examination results.**

(1) **Approved or incomplete application.** The results of an examination wherein an applicant scored a passing grade shall be valid for ninety (90) days one (1) year from the date of such examination.

(2) **Unapproved application.** The results of an examination wherein an applicant scored a passing grade shall be valid for ninety (90) days from the date the application has received final approval but shall not be valid for more than one year from the date of examination.

(h) **Extension of examination grade validity period.** An applicant may request in writing for an extension of the validity period, showing cause why such period should be extended. At the discretion of the Commission, such validity period may be extended.

(i) **Disciplinary examination fee.** A fee shall be charged for an examination which is directed by Order of the Commission as disciplinary action.

(j) **Broker applicants.** A broker applicant who completes an entire broker examination and who is unsuccessful, may, if he or she retakes the examination within thirty (30) days, elect not

to complete the written closing statement portion again, but be given his or her first written closing statement and re-enter his or her multiple choice closing statement answers.

605:10-5-1. Approval of prelicense course offerings

* * *

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a Twenty-Five Dollar (\$25.00) One Hundred Dollar (\$100.00) application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

(1) A bachelor's degree with a major in real estate from an accredited college or university.

(2) A bachelor's degree from an accredited college or university, and at least two (2) years active experience within the previous ten (10) years as a real estate broker.

(3) A real estate broker licensed in Oklahoma with a minimum of five (5) years active experience within the previous ten (10) years as a real estate broker and proof of high school education or its GED equivalent.

(4) An individual determined by the Commission to possess a combination of education and/or active broker experience in real estate or real estate related fields which constitutes an equivalent to of one or more of the qualifications in paragraphs (1), (2), or (3) of this subsection.

Course content examination. Final approval will be considered after the instructor applicant has paid the appropriate examination fee and successfully completed an applicable Commission administered course content examination with a passing score of 80% or more. An instructor shall be allowed to successfully complete the applicable examination one time without charge; thereafter, the applicable examination fee shall be charged for each examination. If an instructor applicant fails to pass the examination prescribed by the Commission, the Commission may permit subsequent examinations upon receipt of the applicable examination fee for each examination to be taken. If an instructor applicant has successfully taken an applicable license examination with a passing score of 80% or more within thirty (30) days of filing an instructor application, such passing score may be utilized to meet the applicable examination requirement in this section. If however, the instructor applicant does not obtain approval within 90 days of filing an instructor application, due to no fault on the part of the Commission, the instructor will be required to take the applicable examination again.

* * *

DISCIPLINARY ACTION *continued from page 2*

C-2007-075 – Sooner Traditions Realty LLC, Bart Hunter Miller (BM) and Judy L. Miller (SA) – Norman: Violations by Bart H. Miller: Title 59 O.S. §858-312(2) and Rule 605:10-15-1, in that he failed to disclose his beneficial interest in the selling entity and gave the complainant a disclaimer signed more than 180 days prior to being given to the complainant, and Title 59 O.S. §858-312(23), in that he violated the Residential Property Condition Disclosure Act.

No evidence was received to indicate that Respondents Sooner Traditions Realty LLC and Judy L. Miller violated any provision of the Oklahoma Real Estate License Code.

Bart H. Miller consented to payment of an administrative fine of Two Hundred Dollars (\$200.00) for each violation, for a total of Six Hundred Dollars (\$600.00). The case against Sooner Traditions Realty LLC and Judy L. Miller was closed.

C-2007-086 – The Alliance Real Estate Group Incorporated, Regina M. Yager (BM) – Oklahoma City; The Alliance Real Estate Group Incorporated (BO), Carol Stephens (BB), Tonya D. Coffman (SA) and Judith L. Langdon (SA) – Edmond: Violations by Respondents Alliance Real Estate Group Incorporated, Regina M. Yager, Alliance Real Estate Group Incorporated (BO), Carol Stephens, Tonya Coffman and Judith L. Langdon: Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-2(b), in that they failed to file an adequate written response to the complaint filed in this matter.

Violations by Respondent Regina M. Yager: Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(9), in that she failed to timely furnish to the Commission the requested documentation concerning the transaction involved.

Alliance Real Estate Group Incorporated, Regina M. Yager, Alliance Real Estate Group Incorporated (BO), Carol Stephens, Tonya Coffman and Judith L. Langdon consented to payment of an administrative fine of One Hundred Dollars (\$100.00) each, for a total of Six Hundred Dollars (\$600.00). Respondent Regina M. Yager has consented to payment of an administrative fine of Three Hundred Dollars (\$300.00).

C-2006-112 – Brandon L. Baum (SA) – Joplin, Mo; Teresa Marie Therrien (SA) – Edmond; Timothy James McDaniel (SA) – Enid: Respondent Brandon L. Baum was found in violation of Title 59 O.S. §858-312, Subsections 8, 9 and 19, in that he was convicted of thirteen (13) counts of Wire Fraud and Engaging in a Monetary Transaction in Criminally Derived Property in the United States District Court for the Western District of Oklahoma; Respondent Teresa M. Therrien was found in violation of Title 59 O.S. §858-312, Subsections 8, 9 and 19, in that she was convicted of Wire Fraud and Engaging in a Monetary Transaction in Criminally Derived Property in the United States District Court for the Western

District of Oklahoma, and that Respondent Timothy J. McDaniel was found in violation of Title 59 O.S. §858-312, Subsections 8, 9 and 19, in that he pled guilty to and was convicted of one (1) count of Wire Fraud.

It was ordered that the Oklahoma Real Estate Sales Associate's license of Brandon L. Baum, Teresa M. Therrien and Timothy J. McDaniel be revoked.

JUNE 2008

U-2007-010 – McBride and Wilson Properties LLC – Edmond: Violations by Respondent McBride and Wilson Properties LLC: Title 59 O.S. §858-102(2), in that the Respondent was unlicensed during the period of December 2004 through December 2005, and engaged in licensable activity without a real estate license.

McBride and Wilson Properties LLC consented to payment of an administrative fine of Twenty-five Thousand Dollars (\$25,000.00). Payment of the fine will be made in monthly installments, with an initial payment of Five Thousand Dollars (\$5,000.00) and One Thousand Dollars (\$1,000.00) per month thereafter until the balance is paid in full.

C-2006-094 – McBride and Wilson Properties LLC, Jerry Lee McBride (BM), Rodney David Wilson (BA) – Edmond, Churchill Brown and Associates Incorporated, Judy K. Lindsay (BM), Churchill Brown and Associates Incorporated (BO) and Lamont K. Churchill (BB) – Oklahoma City: Violations by Respondents Jerry L. McBride and Rodney D. Wilson: Title 59 O.S. §858-312, Subsections 4 and 9, in that they received payments from the Complainants for property management services during the period of March 2005 to February 2006, which were not paid through their managing broker, Title 59 O.S. §858-312, Subsections 6 and 9 and Rule 605:10-13-2(1), in that they failed to turn over security deposit funds received from Deana Moslander to their managing broker, and Title 59 O.S. §858-312, Subsection 9 and Title 59 O.S. §858-354 (B) (2)(4), in that they failed to advise the Complainants that Deana Moslander received ten (10) days free rent as an early occupancy incentive and failed to collect and deposit the full amount of the security deposit from Deana Moslander.

Jerry L. McBride consented to payment of an administrative fine of One Thousand Dollars (\$1,000.00) for violating Title 59 O.S. §858-312, Subsections 4 and 9, One Thousand Dollars (\$1,000.00) for violating Title 59 O.S. §858-312, Subsections 6 and 9 and Rule 605:10-13-2(1), and Five Hundred Dollars (\$500.00) for violating Title 59 O.S. §858-312, Subsection 9 and Title 59 O.S. §858-354 (B)(2)(4), for a total of Two Thousand Five Hundred Dollars (\$2,500.00). Further, he will attend and complete a Fifteen (15) hour Broker-in-Charge course.

Rodney D. Wilson consented to payment of an administrative fine of One Thousand Dollars (\$1,000.00) for violating Title 59 O.S. §858-312, Subsections 4 and 9, One Thousand Dollars (\$1,000.00) for violating Title 59 O.S. §858-312,

Subsections 6 and 9 and Rule 605:10-13-2(1), and Five Hundred Dollars (\$500.00) for violating Title 59 O.S. §858-312, Subsection 9 and Title 59 O.S. §858-354 (B)(2)(4), for a total of Two Thousand Five Hundred Dollars (\$2,500.00). Further, he will attend and complete a Fifteen (15) hour Broker-in-Charge course.

The case against the remaining Respondents McBride and Wilson Properties LLC, Churchill Brown and Associates Incorporated, Judy K. Lindsay, Churchill Brown and Associates (BO) and Lamont K. Churchill, was closed.

C-2006-116 – Elder and Company LLC and Carol J. Elder (BM) – Grove: Violations by Respondents Elder and Company LLC and Carol J. Elder: Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-13-3(b), in that they disbursed \$10,000.00 deposited as escrow money in this transaction to the Seller without first giving fifteen (15) days written notice to all parties concerned setting forth the proposed disbursement.

Elder and Company LLC and Carol J. Elder consented to payment of an administrative fine of Five Hundred Dollars (\$500.00) each, for a total of One Thousand Dollars (\$1,000.00).

C-2007-021 – Big 8 Real Estate Incorporated, Shelby D. Satterfield (BM) and G. Annette Jett (SA) – Tulsa: Violations by Respondents Shelby D. Satterfield and Big 8 Real Estate Incorporated: Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(6)(14), in that they allowed Respondent G. Annette Jett to operate a real estate business on her own, and allowed it to continue without proper supervision.

Violations by Respondent G. Annette Jett: Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-11-1, in that she operated a real estate business on her own and outside of the supervision of her managing broker, and Title 59 O.S. §858-312, Subsections 6 and 8 and Rule 605:10-13-2, in that she received rents and deposits and failed to turn over said rents and deposits to her managing broker.

Big 8 Real Estate and Shelby D. Satterfield consented to payment of an administrative fine of Five Hundred Dollars (\$500.00) each, for a total of One Thousand Dollars (\$1,000.00), and Shelby Satterfield consented to attending and completing a fifteen (15) hour Broker-in-Charge course. G. Annette Jett consented to payment of an administrative fine of Five Hundred Dollars (\$500.00) for each violation, for a total of One Thousand Dollars (\$1,000.00) and attendance and completion of six (6) hours of continuing education on the subject of Property Management and Laws and Regulations.

C-2007-074 – Lecye Katherine Doolen (SA) – Edmond: Violations by Respondent Lecye K. Doolen: Title 59 O.S. §858-312, Subsections 8 and 9, in that she pled guilty to the charge of willfully and knowingly operating a motor vehicle while under the influence of alcohol.

Lecye Katherine Doolen consented to payment of an administrative fine of Two Hundred Fifty Dollars (\$250.00).

C-2007-035 – Marion Group Real Estate Incorporated and Walter L. Marion (BM)

– Lawton: Respondents Marion Group Incorporated and Walter L. Marion were found in violation of Title 59 O.S. §858-312, Subsections 8 and 9 and Title 59 O.S. §858-363, in that they disclosed as a transaction broker for themselves as Sellers; Title 59 O.S. §858-312, Subsections 8, 9 and 12, in that the Respondents paid Complainant Buyer's closing costs, and Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-3, in that the Respondents used trade names in connection with real estate activities which were not registered with the Commission.

Marion Group Incorporated and Walter L. Marion were formally reprimanded and ordered to pay administrative fines totaling Five Hundred Dollars (\$500.00)

C-2007-037 – Marion Group Incorporated and Walter L. Marion (BM) – Lawton:

Respondents Marion Group Incorporated and Walter L. Marion were found in violation of Title 59 O.S. §858-312, Subsections 8 and 9 and Title 59 O.S. §858-363, in that they disclosed as a transaction broker for themselves as Sellers; Title 59 O.S. §858-312, Subsections 8, 9 and 12, in that the Respondents paid Complainant Buyer's closing costs, and Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-3, in that the Respondents used trade names in connection with real estate activities which were not registered with the Commission.

Marion Group Incorporated and Walter L. Marion were formally reprimanded and ordered to pay administrative fines totaling Five Hundred Dollars (\$500.00)

C-2007-066 – Land Rush Property Management LLC, Corey Allan Pogue (BM) and Neil Thomas Hamilton (SA) – Oklahoma City:

Respondent Neil T. Hamilton was found in violation of Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-2(b), in that he failed to file a written response to the complaint; Respondents Land Rush Property Management LLC and Corey A. Pogue were found in violation of Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-1(a), in that they failed to maintain a specific place of business which was available to the public during reasonable business hours; Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-5(a), in that they failed to notify the Commission of a change of business address within ten (10) days of such change, and Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-7, in that they failed to comply with the requirements for cessation of real estate activities;

Respondent Corey A. Pogue was found in violation of Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-1(a), in that he failed to be available to supervise his brokerage.

The Oklahoma Real Estate licenses of Land Rush Property Management LLC, Corey A. Pogue and Neil T. Hamilton were ordered revoked and each Respondent was ordered to pay an administrative fine of One Thousand Dollars (\$1,000.00), for a total of Three Thousand Dollars (\$3,000.00).

AUGUST 2008

C-2007-108 – Ladonna Marie Blakey (PSA)

– Pocola: Violation by Respondent Ladonna M. Blakey: Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-11-1(a), in that she began doing business on August 16, 2007 before her license was issued on September 4, 2007.

Ladonna Blakey consented to payment of an administrative fine of Five Hundred Dollars (\$500.00), and to attending and completing of three (3) hours of continuing education in the subject of Rules and Regulations within six (6) months from the date of receipt of Final Order.

C-2007-068 – Timothy M. Van Meter (SA)

– Durant: Violations by Respondent Timothy Van Meter: Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-2(b), in that he failed to file an adequate response within fifteen (15) days of the complaint, and Title 59 O.S. §858-312, Subsection 9, in that he was convicted of a crime involving moral turpitude as he was convicted of Driving While Intoxicated in Dallas County, Texas on July 26, 2005.

Timothy M. Van Meter consented to payment of an administrative fine of Two Hundred Fifty Dollars (\$250.00).

C-2006-105 – Homeowners Marketing Realty and Relocation Incorporated and Ellen Stewart (BM) – Sapulpa:

Respondent Ellen Stewart was found in violation of Title 59 O.S. §858-312, Subsections 9 and 16 and Rule 605:10-17-4(12), in that she commingled her own money with the money of others, and Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-9-4(c)(1), in that she failed to disclose in the contract submitted to the complainants that she was an Oklahoma real estate licensee.

No evidence was received to indicate any violation of the Oklahoma Real Estate License Code or the rules of the Commission by Respondent Homeowners Marketing Realty and Relocation Incorporated.

Ellen Stewart was formally reprimanded and ordered to pay administrative fines totaling Two Thousand Dollars (\$2,000.00). She was also ordered to attend and complete fifteen (15) hours of continuing education in the subject of Broker-in-Charge within four (4) months from the date of receipt of Final Order. After non-compliance with the order, the Oklahoma Real Estate Broker License of Ellen Stewart was revoked on October 31, 2008.

C-2007-032 – Randolph C. Chaney (BP) and Jamie Lee Morris (SA) – Wewoka:

Respondents Randolph C. Chaney and Jamie L. Morris were found in violation of Title 59 O.S. §858-

312, Subsections 2, 8 and 9, in that they failed to inform the complainants of the defects in the foundation of the home, and Title 59 O.S. §858-312, Subsections 8 and 9, in that they failed to provide a copy of the July 9, 2002 foundation repair estimate to the complainant.

Randolph C. Chaney was ordered to pay an administrative fine of One Thousand Dollars (\$1,000.00) for each violation, for a total of Two Thousand Dollars (\$2,000.00), and Jamie L. Morris was ordered to pay an administrative fine of One Thousand Dollars (\$1,000.00) for each violation, for a total of Two Thousand Dollars (\$2,000.00). After non-payment of fines, the Oklahoma Real Estate License of Jamie L. Morris and Randolph Chaney were revoked on November 14, 2008.

C-2007-090 – Angela Marie Townsend (SA)

– Oklahoma City: Respondent Angela M. Townsend was found in violation of Title 59 O.S. §858-312, Subsections 8 and 9, in that she submitted an application for a loan which contained false information concerning her income, and Title 59 O.S. §858-312, Subsections 8, 9, 15 and 19, in that she entered a plea of Guilty to the charge of Mail Fraud in Case Number CR-07-191M in the United States District Court for the Western District of Oklahoma.

The Oklahoma Real Estate Sales Associate's license of Respondent Angela Marie Townsend was ordered revoked.

C-2006-078 – Detrick Realty Incorporated, Warren L. Stewart (BM), Detrick Realty Incorporated (BO), Daniel G. Staudt (BB), The Detrick Companies Incorporated, Sheldon Detrick (BM), The Leinbach Company and Edward B. Leinbach (BM) – Tulsa:

Violations by Respondents Sheldon Detrick and Edward Leinbach: Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(7), in that they failed to disclose in the contract of sale their interest in Winchester West LLC, title owner of the subject property.

Respondents Sheldon Detrick and Edward Leinbach consented to assessment of an administrative fine of Two Hundred Dollars (\$200.00) each, for a total of Four Hundred Dollars (\$400.00).

C-2006-046 – John Hausam Incorporated, John Louis Hausam (BM) and Joseph Raymond Durant (SA) – Tulsa:

Respondent Joseph R. Durant was found in violation of Title 59 O.S. §858-312, Subsections 6 and 9 and Rule 605:10-13-1(a)(1), in that he failed to turn over the \$1,000.00 check associated with this transaction to his broker.

Respondents John Hausam Incorporated and John L. Hausam did not violate any provision of the Oklahoma Real Estate License Code or the Rules of the Commission.

Respondent Joseph Raymond Durant was formally reprimanded and assessed an administrative fine of Five Hundred Dollars (\$500.00).

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