

MINUTES  
Texas Real Estate Commission  
July 22, 2002  
Conference Room 235, Texas Real Estate Commission  
Austin, Texas

Chairman Michael Brodie called the regularly scheduled meeting of the Texas Real Estate Commission to order at 9:05 a.m., Monday, July 22, 2002. In addition to Chairman Brodie, members present were Kay Sutton, James Austin, Larry Jokl, Mick Cantu and John Walton. Louise Hull, Maria Gil and Paul Jordan were absent.

Staff present were: Wayne Thorburn, Administrator; Sabrina Hassumani, Assistant Administrator; Loretta DeHay, General Counsel; Linda Bayless, Director of Enforcement; Alan Waters, Director of Staff Services; Glen Bridge, Director of Information Services; and Patricia Holder, Executive Assistant.

The Chairman led the attendees in the pledge of allegiance.

Chairman Brodie moved to agenda item two, minutes of the June 3, 2002 Commission meeting. Mr. Jokl, seconded by Ms. Sutton, moved to approve the minutes as mailed. The motion was adopted by unanimous vote.

Mr. Thorburn announced that PSI Examination Services would hold an orientation later today in Room 235 at 1:30 p.m. to acquaint attendees with the changes that will occur in the examination program effective September 1, 2002. Three more orientation sessions are scheduled: July 23, 2002 at 8:30 a.m. at the Houston Association of Realtors; July 23, 2002 at 2:30 p.m. at the Greater Dallas Association of Realtors; and July 24, 2002 at 10:00 a.m. at the Lubbock Association of Realtors.

The Chairman turned the meeting over to Commissioner Cantu for the next three agenda items. Mr. Cantu moved to agenda item three, the Rehearing in the Matter of Blake Allan Yarborough, Hearing File No. 02-93-020069. Mr. Cantu stated that this case had been resolved and called on Brad Bowman, staff attorney, to explain the resolution of this case. Mr. Bowman stated that an agreed order had been entered.

Mr. Cantu moved to agenda item four, Motion for Rehearing and Motion for Probation in the Matter of Opal Diane Handy, Hearing File No. 02-80-010705. Attorneys J. G. Harris and Timothy Webb appeared for Ms. Handy, who was not present. Mr. Bowman appeared for the Enforcement .

Mr. Harris presented the motion for rehearing and the motion for probation. Mr. Bowman presented the Enforcement 's answer. After discussion, Mr. Webb presented his rebuttal to the Enforcement 's answer. After discussion, Mr. Cantu called for a vote on the motion for rehearing. The motion was denied by unanimous vote. Mr. Cantu called for a vote on the motion for probation. After discussion, the motion was amended to probated revocation for the period of one year, completion of a 30-hour Real Estate Law course and all other standard terms and conditions. The motion was granted as amended.

Mr. Cantu moved to agenda item five, Motion for Rehearing, Motion for Modification of Order and Motion for Probation in the Matter of Christina Elisabeth Jones, Hearing File No. 02-108-011462. Attorney Jay Beatty appeared for Ms. Jones and Janell Senn, staff attorney, appeared for the Enforcement . Mr. Beatty presented the motion for rehearing, motion for modification and motion for probation. Ms. Senn presented the Enforcement 's answer to the three motions. Mr. Beatty presented his rebuttal to the

Enforcement 's answer. After discussion, Mr. Cantu called for a vote on the motion for a rehearing. The motion was denied by unanimous vote. Mr. Cantu called for a vote on the motion for modification as amended. The motion was modified to suspend Ms. Jones' license for six months. The suspension would be probated for the period of one year. During the initial six months Ms. Jones would be required to complete a 30 hour law course and a course on contracts. The motion for modification was granted by unanimous vote.

The Chairman announced a break at 10:51 a.m. The meeting was called back to order at 11:02 a.m. Mr. Brodie called for agenda item seven, monthly staff reports; committee reports.

Mr. Thorburn announced that Ms. Hassumani had been selected to attend the Governor's Executive Development Program for one week in each of the months of August, September, and October.

Ms. Hassumani introduced a new employee in the Education Department, Celia Thompson. Ms. Hassumani gave a review of the various licensing reports. She reported that the number of licensees was steadily increasing along with the number of examinations being taken.

Ms. Bayless, Director of Enforcement, reported on the division's complaint statistics and administrative actions for the previous month. She announced that today was the first day of the Enforcement Conference and that because of this all of the investigators were present at the meeting. Mr. Brodie requested that each investigator stand and state for his or her name and the area of the state for which he or she was responsible. The investigators were: Larry Cook-Dallas/Ft. Worth, Terri Coffman-Dallas/Ft. Worth, Angelique Gladney-Houston, Kay Daniels-Houston, Kitty Martin-Austin, Bill Titter-Houston, Bruce Wooley-Corpus Christi and El Paso, Rock Robinson-Austin, Rick Valdez-Case Manager, Dick Clark-Dallas/Ft. Worth, and Clayton Phillips-San Antonio and El Paso.

Mr. Bridge, Director of Information Services, reported that approximately 45% of the salesperson applications are being received via the Internet. There was discussion concerning placing broker applications on the web site and the increase in applications overall.

Mr. Waters, Director of Staff Services, reported on the recovery fund payment activity. He reported that the internal auditor, Garza, Gonzalez and Associates, had completed the field work for TREC's internal audit and that a report would be forthcoming.

Chairman Brodie moved to agenda item eight, general comments from visitors. There were no public comments. Mr. Brodie moved to agenda item nine, discussion and possible action to adopt: (a) Amendments to 22 TAC §535.214(a), concerning examinations; and (b) Amendments to 22 TAC §535.71(c)(8) and TAC §535.72 regarding mandatory continuing education: approval of providers, courses and instructors.

Ms. DeHay presented item nine (a) for discussion and possible action to adopt. Mr. Walton, seconded by Ms. Sutton, moved to adopt the amendments to TAC §535.214(a) as presented. The motion was adopted by unanimous vote.

Ms. DeHay presented agenda item nine (b) for discussion and possible action to adopt. Mr. Austin, seconded by Mr. Jokl moved to adopt the amendments to 22 TAC §535.71(c)(8) and TAC §535.72 as presented. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item ten, discussion and possible action to approve Legislative Appropriations Request. Mr. Waters presented the agenda item for discussion and possible action. After discussion, Mr. Austin, seconded by Ms. Sutton, moved to approve the Legislative Appropriations Request. The motion was adopted by unanimous vote.

The Chairman moved to agenda item eleven, discussion and possible action to approve Biennial Operating Plan. Mr. Bridge presented the agenda item for discussion and possible action to approve. Mr. Austin, seconded by Ms. Sutton, moved to approve the Biennial Operating Plan. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item twelve, discussion and possible action to approve Chairman's appointment of members to Education Task Force. The Chairman stated that he had not made the appointments yet. This item was postponed until the September meeting.

The Chairman moved to agenda item thirteen, consideration of complaint information. Ms. Bayless requested authorization for the Enforcement division to initiate investigations on Johnny Jay Caperton for pleading guilty or being convicted of a felony involving fraud in violation of Section 15(a)(1) of the Real Estate License Act; for procuring or attempting to procure a license by fraud, misrepresentation or deceit, or making a material misstatement in an application in violation of Section 15(a)(2) of the Act; for paying a commission to or establishing an association with an unlicensed person and acting negligently or incompetently performing acts which require a license in violation of Sections 15(a)(6)(F), (S) and (W) of the Act, and the request is based on information provided in connection with other signed, written complaints received by the Enforcement Division. Ms. Sutton, seconded by Mr. Jokl, moved to authorize the investigation. The motion was adopted by unanimous vote.

Ms. Bayless requested authorization for the Enforcement division to initiate an investigation of Steven Allen Graham for procuring or attempting to procure a real estate license by fraud, misrepresentation or deceit, or by making a material misstatement of fact in an application for a real estate license in violation of Section 15(a)(2) based on information provided in connection with other complaints received by the Enforcement division. Mr. Jokl, seconded by Mr. Walton, moved to authorize the investigation. The motion was adopted by unanimous vote.

Ms. Bayless requested authorization for the Enforcement division to initiate an investigation of JETRINK, Inc., Carol Diane Wood, Designated Officer and Vincent Vallone, Jr. for paying a commission to or associating with unlicensed person(s) based on information obtained from a related case, and on information provided in connection with a license application in violation of Sections 15(a)(6)(F) and (S) of the Real Estate License Act. Mr. Walton, seconded by Mr. Jokl, moved to authorize the investigation. The motion was adopted by unanimous vote.

Ms. Bayless requested authorization for the Enforcement division to initiate an investigation of the following persons for failing to complete their Mandatory Continuing Education hours and pay the \$200 fee needed to renew a license within the time required by 22 TAC §535.92(f): Allan K. Amarani and Bethann Signor. Mr. Walton, seconded by Ms. Sutton, moved to authorize the investigation. The motion was adopted by unanimous vote.

Ms. Bayless requested authorization for the Enforcement division to initiate investigations on the following people for failure to provide information in connection with their license renewals as required by 22 TAC §535.91(a): Calvin Alexander; Michelle Ruth Couch, Lenae Bryant Davis, Mark Edward Jarvis, Molly Dyer Massey, and Mollie M. Swope.

Chairman Brodie moved to agenda item thirteen, entry of orders in contested cases. No orders were presented for entry.

Chairman Brodie moved to agenda item fourteen, executive session to discuss pending litigation pursuant to Texas Government Code, § 551.071 and, if necessary, to receive legal advice from general counsel on posted agenda items under Texas Government Code, §551.071. The executive session began at 11:31 a.m. The executive session ended and the open meeting resumed at 11:40 a.m.

Chairman Brodie moved to agenda item fifteen, discussion and possible action to authorize payments from the recovery funds or other action on items considered in executive session. Ms. DeHay presented the following claims to be paid without contest:

RF 02-018, Gilbert and Mary Rodriguez v. Carol Kirby, in the amount of \$50,000 in actual damages. Mr. Jokl, seconded by Ms. Sutton, moved to approve payment. The motion was adopted by unanimous vote.

RF 02-020, Ernesto Rodriguez v. Walter Velez, in the amount of \$1,200 in attorney fees. Ms. Sutton, seconded by Mr. Jokl, moved to approve payment. The motion was adopted by unanimous vote.

RF 02-021, Mara Polanco v. Richard O'Con, in the amount of \$3,300 in actual damages. Mr. Walton, seconded by Mr. Austin, moved to approve payment. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item sixteen, scheduling of future meetings. Mr. Thorburn read off the current meeting dates: September 9, 2002, November 4, 2002, January 6, 2003 and February 24, 2003. It was decided that no additional meetings would be scheduled at this time. The Chairman adjourned the meeting at 11:44a.m.

APPROVED this the 9<sup>th</sup> day of September A.D. 2002.

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C. Michael Brodie  
Chairman

ATTEST: \_\_\_\_\_  
Wayne Thorburn  
Administrator