



ARKANSAS REAL ESTATE COMMISSION

N E W S L E T T E R

MARCH 2006

Arkansas Real Estate Commission
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Members of the Commission

Doug Smith, Chairman
Little Rock

Roy Rainey, Vice Chairman
Little Rock

Cliff Goodin
Russellville

Ina Martin
Russellville

Sylvester L. Smith, III
North Little Rock

Commission Staff

Bill J. Williamson
Executive Director

Gary C. Isom
Deputy Executive Director

NEW COMMISSIONER APPOINTED

Cliff Goodin of Russellville was appointed by Governor Huckabee to serve a three-year term on the Arkansas Real Estate Commission beginning January 2006.

Cliff has been active in real estate sales and as a commercial and residential developer for over 30 years. Since 1981 Cliff has owned and managed Cliff Goodin and Associates, REALTORS® in Russellville, Arkansas.

Cliff has served on the state level with the Arkansas REALTORS® Association as past President, 1998 Arkansas REALTOR® of the Year, chaired and served on numerous committees, and currently is a member of the Board of Directors. Cliff has also served as a Director and Chairman of the Arkansas Real Estate Foundation, and as a State Director of the Arkansas Home Builders Association.

On the national level Cliff is a Director of the National REALTORS® Association and a member of the Public Policy Coordinating and Federal Housing Policy Committees.

Cliff has been active in his community and served as President of the Russellville Board of REALTORS®, past President of the Arkansas River Valley Home Builders Association, on the City of Russellville Blue Ribbon Committee, was past Chairman of the Board of City Corporation (2004), Chairman of Board Russellville Chamber of Commerce (1997) and was honored as Russellville Citizen of the Year in 2000.

Cliff currently serves on the Arkansas Valley Alliance for Economic Development, Council of Professionals of Arkansas Tech University Foundation Board, and Advisory Committee of Russellville High School.

Cliff is married to Sara Lou Goodin (who holds an Arkansas Salesperson license) and they have two daughters, Gaye Croom and Julie Oxendine, two granddaughters, Libby Croom and Meagan Oxendine and two grandsons, Tripp Croom and Harrison Oxendine.



CLIFF GOODIN

NEW CHAIRMAN AND VICE CHAIRMAN

The Commission at its January 2006 meeting elected **Doug Smith**, Principal Broker and President of Adkins, McNeill, Smith and Associates, Realtors in Little Rock as Chairman, and **Roy Rainey**, Broker/Owner of Rainey Realty, Little Rock as Vice Chairman. In addition to new Commissioner Cliff Goodin other members are Ina Martin from Russellville and Sylvester Smith, III from North Little Rock.

CONTINUED ON PAGE 2

**From the Executive Director
Bill J. Williamson**

REPORT TRUST ACCOUNT CHANGES



Regulation 10.8(e) requires a Principal Broker to submit to AREC in writing the following information about the firm's trust account:

- (1) Name and number of account.
- (2) Name and address of the bank.
- (3) Date the account was opened.

If any of the above information changes about the firm's trust account, such as the bank name changes, the Principal Broker must notify AREC in writing regarding the change.

If the above information previously submitted to AREC about the firm's trust account has changed, contact the AREC for a "Trust Account Information" form to update the information on file. (AREC Web Site www.arkansas.gov/arec and Click on "AREC Forms")

AREC STAFF MEMBERS

The Commission would like to welcome the following new staff members. Investigator

Tracy Glenn, Accountant **Norma Bland**, Administrative Assistant **Kris Lasker**, Receptionist **Beth Johnson**, and Secretary **TaCarla Arnold**.

AREC SCHOLARSHIPS FOR BROKERS By Gary C. Ison

WHAT WE HAVE HERE - IS A FAILURE TO EDUCATE

However, where on the road of education has the failure manifested itself, at the starting point, or at the finish line? When the Warden used a similar phrase to address communication problems with Paul Newman in *Cool Hand Luke*, I doubt seriously that the Warden faulted himself with any blame for the delivery of the message being communicated. To the contrary, he most certainly considered that the message just wasn't being received in the spirit in which it was sent.

A group of Arkansas salespersons, brokers and educators recently assembled at the real estate commission to discuss real estate education. The overwhelming conclusion of the participants was that Arkansas has many supervising brokers who aren't really committed to education, either for themselves or for those

licensed with them. Furthermore, it was this group's consensus that many supervising brokers deem the act of attending a continuing education class as nothing more than a necessary inconvenience required for maintaining an active Arkansas real estate license. In the year 2000, another group of licensees assembled with instructors and expressed somewhat similar concerns at that time, that supervising brokers were not providing adequate instructional support and advice to those salespersons licensed under them.

The Arkansas Real Estate Commission cannot force brokers to commit themselves or their licensees to education. However, AREC has seen a decline in the number of complaints as education has improved and will therefore remain committed to education.

From April 1 to June 15 of 2006, AREC will offer scholarships to active real estate brokers of up to \$50 to offset the cost of attending either of two of the AREC Post License Course broker modules entitled "Agent and Broker

See [AREC Scholarships for Brokers](#) - Page 4



AREC Chairman Doug Smith's Perspective

It has been a great privilege for me to serve these past two years as an industry member of the Arkansas Real Estate Commission. I have served under the leadership of two notable, dedicated chairmen——Chairman Mary Bassett, who served six years as an AREC commissioner with two terms as chair and Chairman Debbie Rawls, who will serve as the 2007 President of the Arkansas REALTORS Association. I have learned a great deal from both of them. This year, I am fortunate to work with our able, knowledgeable consumer members——Ina Martin and Sylvester Smith, III. Their questions and insight help all of the Commissioners better understand the details and nuisances of the case before us. The history, knowledge and real estate business acumen of both Vice-chair Roy Rainey, Jr. and newest industry member Cliff Gooden is formative and invaluable. I am honored to have this opportunity to serve with such outstanding leaders in our industry.

From my very first review of an appeal before the AREC in January, 2004 to our recent review of the facts of a case in January 2006 there is one trend that I have noticed in the real estate business: ARKANSAS REAL ESTATE AGENTS ARE VERY BUSY! A recent article in the Arkansas Democrat Gazette stated that Arkansas outpaced every other state in the country in existing-home sales. I know that this

will not be a surprise to any readers of this paragraph!! And many will say, "Doug, you do not need to be a rocket scientist to come to this conclusion!" However, there is somewhat of a natural progression when an agent becomes very busy. Benjamin Franklin put it this way: "Haste makes waste"! At least I have always heard that Franklin said it that way. What I have seen in many of the cases and hearings before the Commission may not be reasons to lose your ability to represent Buyers and Sellers in Arkansas. However, they are reasons to squander valuable time in response to a complaint or lose many hours in a formal hearing——not to mention the embarrassment and heartache of sanctions from the AREC.

My advice to real estate agents including myself: SLOW DOWN! THINK! REMEMBER WHO IS THE MOST IMPORTANT PARTY TO THIS CONTRACT! Think before you say, "My seller has cancer and must sell immediately at any price!" Did you ever stop to think about giving feedback to the listing agent when you are working for the buyer? Have you hurt or weakened the Buyer's position when you have answered a listing agents request for feedback with, "They really loved the place!" A Seller's Agent may immediately forward any feedback to the Seller which could affect your Buyer's negotiating position. The Commission heard a recent case where a licensed agent sold a

home that he bought at auction to an individual without even suggesting that an inspection would be important. It appeared as if he was taking care of himself and not the buyer, whom he "stated" he also represented. Just recently we reviewed a case where the term "more or less" was placed in the contract for a home and five acres by an agent representing a Buyer. Because the property was a rectangle, some simple arithmetic by the agent would have shown the property was substantially less than five acres. This resulted in a complaint filed by the buyer alleging that the Buyer's agent did not represent the buyer's best interest.

These errors in judgment are not intentional but are the result of being too hasty and not taking the time to remember who you represent. Many of the licensees we see at AREC hearings are seasoned agents who were just a little too busy! They did not take the time to follow through and protect the client's interest. My advice, as a Commissioner, is to slow down and remember who you are working for in each transaction, put your client's interest first, and hopefully you will not have to be invited to a Commission Hearing party. LAISSEZ LES BON TEMPS ROULEZ!

FORMAL Hearing DECISIONS

The following information is extracted from Findings of Fact, Conclusions of Law and Order, and Consent Orders issued by the Commission from October 2005 through January 2006. Formal Hearing Decisions that have been appealed are not listed.

Jeanette Hemmer, Broker, Lamar and Charles (Chad) D. Over, Jr., Salesperson, Lamar: In Formal Hearing #3006 the Commission ordered that "...Respondent Hemmer's principal broker license is revoked; however, Ms. Hemmer is allowed to take the 18-hour post-license salesperson course as approved by Executive Director, whereupon she will be issued a real estate salesperson license allowing her to work under the supervision of a principal broker who must be approved by the Executive Director, and after three years will be permitted to apply for the principal broker license."

The Commission found Ms. Hemmer guilty of violating Arkansas Code Annotated §17-42-311(a)(13), and Commission Regulations 8.5(a), 10.4(b), and 10.4(d)(2).

Respondent Hemmer, as Principal Broker allowed Respondent Over to sign the listing agreement with Seller as the assigned associate to the listing, conduct the real estate auction and received compensation for selling Seller's real estate at auction, when she knew or should have known that Respondent Over did not hold a current salesperson license with her firm.

Respondent Hemmer failed to ensure that the real estate closing conducted on behalf of Complainant was conducted in accordance with the terms of the parties' agreement. Although the seller's listing agreement required seller to pay a 6% commission and the parties' real estate contract did not provide for buyer to pay a

commission or buyer's premium of any amount, the July 21, 2003 Settlement Statement charged Complainant with a \$13,900 commission and failed to charge any commission to the seller.

Respondent Hemmer, as principal broker and agent for both buyer and seller, knew or should have known that Complainant had tendered a \$13,900 check to Respondent Over following the auction, but failed to supervise Respondent Over by requiring him to deliver the check or proceeds thereof to her to be deposited into Respondent Hemmer's trust account as required by Commission Regulation 10.7(a)(1).

After Complainant's attorney notified Respondent Hemmer of the unauthorized \$13,900 commission erroneously charged to Complainant at closing, Respondent took no action to cause Complainant to be paid the balance of the unauthorized commission charge remaining after Seller paid to Complainant the seller's 6% commission.

The Commission ordered that "...Respondent Charles (Chad) Over's real estate license is revoked."

The Commission found Respondent Over guilty of violating Arkansas Code Annotated §17-42-311(a)(6) and Commission Regulation 6.3(b).

Respondent Over practiced real estate while holding an expired real estate license.

Respondent Over failed to account for or remit funds in his possession that belonged to Complainant. Respondent Over received Seller's \$13,900 payment, 10% of the purchase price, on her purchase of the subject property. Thereafter, after receiving notice that Complainant had erroneously been charged a 10% commission at closing, he failed to remit or account to Complainant within a reasonable time for the balance of that charge, after seller had paid her 6% commission to Complainant.

A Recovery Fund was held. Pursuant to Arkansas Code Annotated § 17-42-401 et seq., the Commission ordered Respondent Hemmer to pay Complainant \$549.00, within thirty (30) days of the issuance of the Commission's written Order. The Commission ordered Respondent Over to pay Complainant \$1,283.50, within thirty (30) days of the issuance of the Commission's written Order.

Arthur D. Harris, Broker, Hot Springs: In Formal Hearing # 3007 the Commissioners ordered that "...Respondent Harris is ordered to pay a fine of \$500.00 to the Arkansas Real Estate Commission within thirty (30) days of his receipt of the written Order, and attend a 30-hour post-license broker's course approved by the Commission's Executive Director, for which he will not be eligible for scholarship for that course."

The Commission found Respondent Harris guilty of violating Commission Regulation 10.16(b).

Respondent Harris did not make a written report to the Arkansas Real Estate Commission of the sanctions of the Arkansas Appraiser Licensing and Certification Board that found Respondent Harris had violated certain Arkansas statutes and Uniform Rules of Professional Appraisal Practice and ordered a certain disciplinary action against Respondent Harris. Respondent Harris did not make a written report to the Arkansas Real Estate Commission of said sanctions within thirty (30) days after such action.

Terri L. Summers, Salesperson, Bryant: By Consent Order, Formal Hearing #3003 the Commission ordered that "... Respondent Summers successfully complete the Commission's 18-hour Post-License Salesperson Course within six (6) months of the date of the Order..."

The Commission ordered that "... Respondent Summers shall pay to the Commission, within ten (10) days of the date of the Order, a monetary penalty of \$3,500." That "... Respondent Summers' real estate license shall be on probation for a period of 24 months immediately following the date of the Order." That "... during the two years immediately following the date of this Order, Respondent shall not be licensed as a real estate broker." And, that "... Respondent shall provide a copy of this Order to her principal broker within three days of the date of this Order and to any other principal broker with whom



See **Formal Hearing Decisions** -Page 4

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Inside This Issue
Newsletter **March 2006**
Executive Director's Comments.....2
Chairman Doug Smith's Perspective..2
Report Trust Account Changes.....2
AREC Scholarships for Brokers.....2-4
Formal Hearing Decisions.....3-4

Formal Hearing Decisions

Continued from Page 3

Terri L. Summers, Salesperson, Bryant - continued:

Respondent may be affiliated, within three days after becoming affiliated with that principal broker, during the two years immediately following the date of this Order.”

The Commission found Ms. Summers guilty of violating Arkansas Code Annotated § 17-42-311(a)(3) and Commission Regulation 10.16.

Respondent’s guilty plea to and convictions of violations of Arkansas Hot Check Law as set forth in the order are convictions of a crime involving moral turpitude, fraud, dishonesty, untruthfulness, or untrustworthiness.

Respondent Summers did not notify the Arkansas Real Estate Commission of the convictions set forth in the order.

Respondent’s plea of nolo contendere to violation of Arkansas Hot Check Law as set forth in the order constitutes a conviction of a crime involving moral turpitude, fraud, dishonesty, untruthfulness, or untrustworthiness.

Elmer Watkins, Broker, Jonesboro: In Formal Hearing # 3010 the Commission ordered that “...Respondent Watkins’ Broker’s expired license is hereby revoked immediately.”

The Commission found Mr. Watkins guilty of violating Arkansas Code Annotated § 17-42-311(a)(2) and Commission Regulation 7.5(c), 8.1, 8.3, 8.5(a), 10.7(c), 10.9(d), 10.10(c), 10.16(a).

Respondent Watkins did not protect and promote the interest of his client/Complainant. Respondent delivered the warranty deed executed by Complainant to buyer when he knew that the conditions for delivery of the deeds stated in the April 2001 Escrow Agreement had not occurred.

Respondent failed to provide the buyer written notice of his agency relationship with Complainant or, if dual agency existed, he failed to make disclosure in writing to both the Complainant and buyer and obtain their written consent to such dual representation.

Respondent did not report his criminal conviction of August 15, 2001 in *State v. Watkins*, Independence County Circuit Court, Case No. CR. 2001-210, Respondent entered a guilty plea to obstructing governmental operations, a Class C misdemeanor.

Respondent closed his real estate office in 2004, but did not notify the Commission of the address and phone number of the place where he was to maintain his firm’s real estate records.

Upon closing his real estate office, Respondent failed to return to the Commission all the licenses and pocket cards issued to him as principal broker.

Respondent used listing agreements and real estate contracts that had not been approved by an Arkansas attorney.

Respondent disbursed the earnest money on Complainant’s contract to himself after Complainant failed to close on that contract.

Respondent’s disbursement of the earnest money to himself was not authorized in writing by the parties. Respondent did not provide written notice of that disbursement of the earnest money to all parties to the transaction.

Ken D. Stall, Broker, Clarksville: In Consent Order, Formal Hearing # 3002, the Commission ordered that “...Respondent Ken D. Stall shall complete within six months of the date of this Consent Order, a six (6) hour Real Estate Agent and Broker Course and a six (6) hour Real Estate Policies and Procedures Course...”

AREC SCHOLARSHIPS FOR BROKERS

Continued from Page 2

Responsibility” or “Real Estate Policies and Procedures.” There will be a limited number of scholarships available, which will be granted on a first-come, first-served basis. Brokers do NOT need to apply for the scholarship or be approved in advance. Scholarships will be awarded based upon the course rosters furnished to AREC by course providers qualified to offer the courses for scholarship.

More details will be mailed to each Principal Broker at their place of business in early March 2006. Please ask your Principal Broker for a copy of the information from which you can choose the qualified provider of your choice and contact them to enroll.

