



November 2005

ARKANSAS
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Sylvester Smith, III
North Little Rock

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Executive Director

Gary C. Isom
Deputy Executive Director

ARKANSAS REAL ESTATE COMMISSION NEWSLETTER

FROM THE DESK OF
THE EXECUTIVE DIRECTOR...

NEW COMMISSIONER APPOINTED

Sylvester Smith of North Little Rock was appointed by Governor Huckabee to serve a three-year term on the Arkansas Real Estate Commission.

Sylvester Smith was raised in Camden, a small town in South Arkansas. He attributes his success as an effective communicator to his seventh grade English teacher, Mrs. Taylor, who's traditional; no nonsense mentoring and corrective ways enabled him to develop a strong work ethic. Sylvester firmly believes in the African proverb, "it takes a village to raise a child" and it is the positive contribution his community made in his life that helped to make him the man he is today.



Sylvester Smith, III

At the age of nineteen, Sylvester was appointed by Governor Jim Guy Tucker to Chair the Governor's Commission on Youth Violence Prevention. Two years later, he served on the Common Ground Board, a committee that oversaw the dispersal of \$3,000,000 in grants for the prevention of youth violence. He has served as president of the Camden Branch of the NAACP, and 1994, as speaker for "Earth Train"; he took a 20-day speaking tour of the west coast with stops in Seattle, Compton, Los Angeles, and San Francisco.

Sylvester graduated from Camden Fairview High and has a BA in Management from Philander Smith College.

In 2001, Governor Mike Huckabee bestowed upon Sylvester the honor of working as his Policy Advisor for Minority Affairs and Delta Issues. In this position he advised the Governor on legislative and political issues relating to Arkansas' minority population and delta development. He has also served on the Arkansas Minority Business Development Roundtable, and the Lower Mississippi Delta Development Center's board of directors. Sylvester currently serves on the Arkansas Transitional Employment board, which manages the state's welfare to work program, as Governor Huckabee's alternate on the Delta Regional Authority Board of Directors, which oversees the multimillion dollar federal delta development initiative, and is a member of the Arkansas Real Estate Commission.

On November 11th, 2003 the Governor asked Sylvester to take on the duties of Deputy Director in his Washington, D.C. office. During this tenure Sylvester's responsibilities included managing the office, serving as a lobbyist for the State, and helping craft policies and procedures for state agencies.

Most recently Sylvester has been asked to come back to Arkansas and serve as the Arkansas Department of Economic Development's Director of Small and Minority Business Development. In this capacity he and his team help Arkansas entrepreneurs establish and expand businesses in the state. In this capacity he created a one day business management training called the Small Business University to help entrepreneurs learn how to start and run small businesses.

He is a graduate of the University of Arkansas Cooperative Extension Services' Leadership Arkansas program. And he and seven other Americans just returned from Eastern

Europe as part of a leadership program sponsored by the American Council of Young Political Leaders. He is particularly proud of this accomplishment, because he was one of eight delegates selected out of a pool of 1000 nominees from across the country.

Commission Adopts Regulations

The following regulations were recently adopted by the Commission to implement Legislation passed in 2005.

1. Regulation 4.1 Applications; Education; Experience

This Regulation was amended to implement Act 657 of 2005 which authorizes the Commission to require State and Federal FBI criminal history background checks for applicants for a real estate salesperson or broker license.

The criminal background check will require the taking of fingerprints and the applicant will be responsible for payment of any fee required. If an applicant is denied a license based on a criminal Conviction the applicant can request a hearing before the Commission. This change to Regulation 4.1 will be effective January 1, 2006.

2. Regulation 7.4 Branch Office

This Regulation was amended to implement Act 561 of 2005 which authorizes principal brokers to designate executive brokers to supervise licensees at a Branch Office. The amendments also clarify executive broker's responsibilities regarding supervision of licensees at the branch office and deletes confusing requirements concerning "place of business" and the geographical location requirement. This change to Regulation 7.4 will be effective November 1, 2005.

3. Regulation Section 15 Real Estate Auction Definitions and Requirements

This is a new Regulation to implement Act 1173 of 2005 which authorizes the Commission to establish procedures by regulation for real estate licensees to follow when conducting real estate auctions. The regulation defines auction terms; requires a written agreement with the owner of the real estate to be auctioned; and establishes disclosure requirements for real estate licensees who sell real estate at auction. This new regulation will be effective November 1, 2005.

If you would like a copy of the regulations please send your written request to the



Arkansas Real Estate Commission at 612 South Summit Street, Little Rock, Arkansas 72201-4740 to the attention of Jo Harding.

Staff Changes

Senior Investigator Kay Lucy has retired after working at the Commission for 19 years. Kay will spend her retirement traveling and playing with her granddaughter. We wish Kay a long and happy retirement.

Jo Harding has been promoted to the position of Administrative Assistant to the Executive Director and Deputy Executive Director. Jo previously held the position of Examiner.

Principal & Executive Brokers

-Make Sure Your New Associates Fulfill Their Post-License Education Requirements!

Principal and Executive Brokers, picture this scenario. You've just sent that new licensee who came to work for you about 12 months ago to list a new property or present an offer. You sit down in your office and begin to review today's mail. You see a letter from the real estate commission. This peaks your interest. To your surprise, it just happens to have the name of that new licensee identified on the SUBJECT line. As you begin to read the letter, you realize that you have just sent an inactive licensee out to perform a real estate activity. That's because that new licensee either 1) forgot all about completing that post-license course they were required to do, or 2) the licensee completed the course, but then put the certificate of completion in a drawer somewhere, thereby failing to notify the real estate commission that they had completed the course. Consequently, their license has now been placed on inactive status. As you know, inactive licensees cannot perform real estate activities that require a license. So what do you do? Well, let's just not let it happen in the first place. Every new licensee has to complete a post-license education course within 12 months of obtaining their license. Then, we highly suggest that they send a copy of the completion certificate to the Arkansas Real Estate Commission, so that we will know that they have completed the course. Once that's done, you don't have to worry about getting that letter from the real estate commission. We save the postage and you get to relax.

AREC - Who to Call

When calling AREC, real estate licensees may find it more efficient to call one of our associates directly rather than using the general information number published in most directories. For each of the following areas, we suggest you call the person listed so that we can hopefully provide more efficient service.

General licensing and education requirements
Publications and Supplies

-**Sandria Smith** - 501 683-8017
email: sandria.smith@arkansas.gov

Investigation & License Law Regulation Questions

-**Randy Brown** - 501 683-8040
email: randy.brown@arkansas.gov
-**Rick Stanley** - 501 683-8041
email: rick.stanley@arkansas.gov

Requests for AREC speakers, etc.
License Law & Regulation Questions
Real estate course or provider issues
AREC Newsletter related issues

-**Gary Isom** - 501 683-8016
email: gary.isom@arkansas.gov

For more specialized questions regarding a license transaction you have submitted or for complaint activity in which you are involved, AREC correspondence will usually identify the specific associate for you to contact along with their direct telephone number. If we're not immediately available, please leave a message on our voice mail and we'll return your call as timely as possible.

FORMAL HEARING DECISIONS

The following information is extracted from Findings of Fact, Conclusions of Law and Order which were issued for Hearings conducted by the Commission from May 2005 through August 2005. Formal Hearing Decisions that have been appealed are not listed.

Pauline F. White, Salesperson, Mountain Home: In Formal Hearing #2095 the Commissioners ordered that "...a Letter of Reprimand be placed in Ms. White's license file. Furthermore, Respondent White is ordered to pay a fine of \$500.00 to the Arkansas Real Estate Commission within thirty (30) days of receipt of the written Order in this matter. Prior to such time as Respondent White attempts to renew or activate her license, Respondent White is ordered to attend an 18-hour salesperson course, approved by Commission's Executive Director, and Respondent White will not be eligible for scholarship for that course."

The Commission found Respondent White guilty of violating Commission Regulation 8.5(a).

Ms. White failed to protect and promote the interests of her clients, the Complainants. After Complainants told Ms. White they needed property for a commercial use, Ms. White did not determine whether the property was appropriately zoned for her clients' intended commercial use, inquire whether her clients had done so, or include conditions in the contract that required the appropriate commercial zoning classification for the property. Ms. White relied on the erroneous information contained in the MLS printout stating that the property

was commercial land and had commercial potential when; in fact, the property was zoned for residential use.

A Recovery Fund Hearing was held, Pursuant to Arkansas Code Annotated §17-42-40l et seq., the Commission ordered Ms. White to pay the Complainants damages in the amount of \$667.00.

Keith A. Wingfield, Salesperson, Little Rock: In Formal Hearing #2094 the Commissioners ordered that "...Respondent Wingfield be allowed to reinstate his salesperson's license, but as a condition for the reinstatement of said license, Keith Wingfield must present a supervisory plan agreed to by his principal broker and Commission's Executive Director, and approved thereafter by the Commission."

The Commission found Mr. Wingfield guilty of violating Arkansas Code Annotated §17-42-311(a)(3).

Mr. Wingfield was convicted of a crime involving moral turpitude, fraud, dishonesty, untruthfulness, and untrustworthiness.

Tim L. Rodgers, Salesperson, Conway: In Formal Hearing #2097 by Consent Order the Commissioners ordered that "...Respondent Tim L. Rodgers' salesperson's license be revoked effective immediately."

Charges against Mr. Rodgers are as follows: 1) From May 1, 2004 through December 2004 Respondent Rodgers practiced real estate without holding an active real estate license. 2) Respondent Rodgers failed to file a written answer to Complaints filed by Complainants. 3) After reporting to the Commission that Anchor Realty had closed and that he had stored the firm's real estate records at a designated location, Respondent shredded all the real estate records for Anchor

Realty. 4) Respondent's conduct during the period from March 2003 through April 30, 2004 as set forth above, of controlling the trust account for Anchor Realty and issuing or causing to be issued checks which exceeded the balance in said trust account and incurring overdraft and insufficient funds charges, and issuing multiple checks on said trust account payable to himself that were not identified to a real estate transaction, constitutes improper, fraudulent, or dishonest dealing. 5) Respondent advised Complainant that Respondent would transfer the management of Complainant's property to another real estate firm, but failed and refused to do so and continued to manage and collect rent without the Complainant's knowledge. 6) Respondent collected rents for Complainants' properties, but failed within a reasonable time to account for or to remit said rents to Complainants'. 7) Respondent collected deposits for Complainants' properties, but failed within a reasonable time to account for or to remit said deposits to Complainants'. 8) Respondent agreed to perform certain repairs to Complainants' property, received payment therefrom, but failed and refused to complete said repairs, and failed and refused to refund Complainant the cost of the repairs that he did not complete.

See **Formal Hearing Decisions - Page 4**



INSIDE THIS ISSUE

*Executive Director's
Comments*1-2
New Commissioner.....1
AREC - Who to Call?.....2
*Formal
Hearing Decisions*..... 3-4
Post-License..... 2

FORMAL HEARING DECISIONS -

Continued from Page 3

**TIM L. RODGERS, SALESPERSON,
CONWAY- CONTINUED:**

The Commission found Mr. Rodgers guilty of violating Arkansas Code Annotated §17-42-308(a)(2)(Repl.2001), Commission Regulation 9.2(b), Regulation 10.7(c), and Arkansas Code Annotated §17-42-311(a)(13)(6).

A Recovery Fund Hearing was held pursuant to Arkansas Code Annotated §17-42-401 et seq., the Commission ordered Mr. Rodgers to pay Complainants' damages in the total amount of \$31,419.82.

Charles E. Marratt, Broker, Little Rock: In Formal Hearing #3001 the Commissioners ordered "...to deny Respondent Marratt's request for reinstatement as Principal Broker; however, Respondent Marratt may apply for a salesperson's license by written request to the Arkansas Real Estate Commission Executive Director. A salesperson's

license will be granted subject to a supervisory plan to be approved by the Commission prior to issuance of a salesperson's license."

"The Commission further voted unanimously that Respondent Marratt pay to the Arkansas Real Estate Commission a \$200.00 fine pursuant to Arkansas Code Annotated §17-42-312(a)(4) for submission of a fraudulent application."

Mr. Marratt was convicted of a crime involving moral turpitude, fraud, dishonesty, untruthfulness, and untrustworthiness.

Ronald Gates, Broker, Conway: In Formal Hearing #2098 by Consent Order the Commissioners ordered "...that Respondent Ronald Gates' broker license be revoked effective immediately. Furthermore, should Mr. Gates apply for a real estate license in the future, he shall do so

as an original applicant and shall appear before the Commission for the Commission to determine whether he meets the eligibility requirements pursuant to the then applicable law before he is eligible to sit for the Arkansas Salesperson or Broker real estate license examination."

Mr. Gates did not exercise strict supervision of the property management activities of Salesperson Tim Rodgers; failed to have either "trust" or "escrow" in the name of the account he reported to the Commission as his trust account; failed to reconcile the trust account in writing monthly and failed to balance the trust account to the total amount of trust funds deposited into the account that had not been disbursed.

The Commission found Respondent Gates guilty of violating Commission Regulation 10.4(b); Regulation 10.8(c) and Regulation 10.8(g) (2).