

**MINUTES OF MEETING**  
**OF**  
**LOUISIANA REAL ESTATE COMMISSION**  
**MARCH 17, 2011**

The Louisiana Real Estate Commission held its regular meeting on Thursday, February 17, 2011, at 11:00 a.m., at 9071 Interline Ave, Baton Rouge, Louisiana, according to regular call, of which all members of the Commission were duly notified, at which meeting the following members were present:

**COMMISSION**

Frank Trapani, Chairman  
Tim Flavin, Vice Chairman – left meeting at 12:40 p.m.  
Patrick T. Caffery, Jr., Secretary  
Mike D. Bono  
Paul Burns  
Jennifer LaNasa Evans  
Gretchen Ezernack  
Judy Songy  
Cynthia Stafford

**STAFF**

Bruce Unangst, Executive Director  
Arlene C. Edwards, Legal Counsel  
Stephanie Boudreaux  
Debbie Debrates  
Mark Gremillion  
Summer Mire  
Al Rowe  
Nikki Senegal  
Marsha Stafford

**GUESTS**

Roz Allemond, Real Estate School & More LLC  
Chris Donaldson, Donaldson E.S.  
Lilly Dufrene, Saints Board of Realtors  
Amy P. Fennell, LA Realtors  
Mike Hancock, Champions School of Real Estate  
Scott Johnson, LA Realtors  
Brent Lancaster, Bob Brooks School  
Norman Morris, LA Realtors  
Mark Norsworthy, The Real Estate School LLC  
Marx Sterbcow, The Sterbcow Law Group LLC  
Carmel Streater, Cutting Edge Courses

Commission meeting began at 11:30 a.m. to allot for extra committee meeting time.

Commission members Archie Carraway and James Gosslee were not present for the meeting.

Commissioner Stafford led the Invocation; Commissioner Flavin led the Pledge of Allegiance.

Commissioner Flavin made motion, seconded by Commissioner LaNasa Evans, to approve the Minutes of Meeting of February 17, 2011, as written and circulated. Motion passed without opposition.

**PERSONAL APPEARANCES:**

1. Jerry Parker – Mr. Parker appeared before the Louisiana Real Estate Commission in connection with his request to sit for the real estate sales exam.

On January 11, 2007, Mr. Parker pled guilty to aggravated second degree battery. For this offense, Mr. Parker was sentenced to seven (7) years hard labor in the custody of the Louisiana Department of Corrections and ordered to pay a fine of \$500.00 and court costs, which was suspended, and Mr. Parker was placed on three (3) years probation. Mr. Parker was released from probation effective January 12, 2010.

Mr. Parker explained that a domestic situation occurred between him and a prior girlfriend while living in Houma, LA after evacuating Hurricane Katrina. He stated that he pled guilty to second degree battery, completed three years of probation, and has since moved on to become a productive citizen. He has been working in property management for his own property and has also obtained an accounting degree and a master's degree. Commissioner Caffery asked counsel to read the legal definition of second degree battery. Commissioner Flavin asked Mr. Parker if he had been arrested prior to this incident. Mr. Parker stated that he had been arrested for theft in his teens as a juvenile delinquent.

Commissioner Caffery made motion, seconded by Commissioner Bono, to deny Mr. Parker's request to sit for the real estate exam. Commissioner Songy stated that Mr. Parker is doing a great job in turning his life around but feels that not enough time has passed between the present and his probation end. Roll call vote, motion passed without opposition. Commissioner Caffery concurred with Commissioner Songy's comments and encouraged Mr. Parker to reapply in the future. Commissioner Bono also concurred. Commissioner Ezernack also feels that not enough time has lapsed but would like him to reapply in the future as well.

2. Lance George – Mr. George appeared before the Louisiana Real Estate Commission in connection with his request to sit for the real estate sales exam.

On April 16, 2001, Mr. George pled guilty to cruelty to a juvenile. For this offense, he was sentenced to seven (7) years hard labor in the custody of the Louisiana Department of Corrections and to pay a fine of \$1,000.00, which was suspended, and Mr. George was placed on five (5) years probation. Mr. George was released from probation and granted a First Offender Pardon on April 1, 2004.

Mr. George stated that on May 25, 1999, he was in a relationship with a woman who had two small children. On this date, the youngest child, one and a half years of age, suffered a subdural hematoma while in the care of himself and the mother. The attending physician at the time found no external bruising. Mr. George and the mother were between the ages of 17 and 18 at the time. He stated that they found the child slumped over in her car seat and immediately took her to the emergency room. Due to his young age, Mr. George and the mother were both charged. He took the plea based on advice from his attorney at the time. Mr. George stated that his probation ended earlier because no further incidents occurred. Since that time, Mr. George has completed his degree and now works for a division of Sunbeam Breads. He is currently trying to have the conviction set aside. Mr. George answered further questions from the Commission members.

Commissioner Ezernack made motion, seconded by Commissioner Burns, to allow Mr. George to sit for the real estate sales exam. Motion passed, with Commissioner Flavin, Commissioner Caffery, and Commissioner Bono voting in opposition. Mr. George will be allowed to sit for the real estate sales exam.

## COMMITTEE REPORTS:

1. Budget – Commissioner Stafford discussed the budget report prepared by Al Rowe. Mr. Rowe presented the report as printed and entertained any questions. Commissioner Stafford questioned about the Recovery Fund balance. Mr. Rowe stated that we must keep at least \$400,000 in the Recovery Fund and any excess goes into the Education Fund. Any excess in the Education Fund then goes towards paying for the building. Commissioner Ezernack questioned Mr. Rowe on the projection of the budget. The building loan and the utility bills were discussed. Commissioner Flavin asked if there was an energy management system in place. Mr. Gremillion stated that the air conditioning is run on a computer system that regulates temperature and does not allow employees to drastically change. Commissioner Flavin thanked Mr. Rowe for providing the budget report prior to the meeting. (Attachment A)
2. Education/Research/Publication – Commissioner Trapani stated that he will replace Commissioner LaNasa Evans as chairman of the Education/Research/Publication committee due to Commissioner LaNasa Evans' personal reasons. Commissioner Caffery will remain vice-chairman and will take over the committee. Commissioner Caffery reported that the Education committee successfully passed a proposal to refine and redo the continuing education curriculum in place with an amendment to include Commissioner Trapani appointing a special committee to include educators sometime between now and the first of April 2011. Ms. Boudreaux read the motion from the Education Committee meeting which stated "to approve the proposed procedure presented by staff with a clarification that #6 would be amended to include certified educators". Commissioner Caffery made motion, seconded by Commissioner Flavin, that the Education Committee's recommendation be brought to the Commission as a separate motion to be voted on at this time. Motion passed without opposition. All members of the Commission will be allowed to participate in the meeting. A motion was made in the Education Committee meeting by Commissioner Ezernack, seconded by Commissioner Trapani, to disallow self promotion in classroom settings. Commissioner Caffery offered this motion to the full Commission and was seconded by Commissioner Ezernack. Motion passed without opposition.
3. Legislative/Legal/Timeshare – Commissioner Flavin that two motions were made in committee and need to be approved by the full Commission. The first motion was to leave the handling of deposits as it is currently set up. The second motion was the leave the fee structure as it is currently set. Commissioner Flavin made motion, seconded by Commissioner Songy, to approve both motions. Motion passed without opposition. Other items which were addressed- the intent of rules on making changes to the Buy/Sell Agreement has been referred to staff to prepare verbiage which addresses that problem; Agency (from the strategic plan) has been assigned to an agency committee which will be chaired by Commissioner LaNasa Evans to discuss at a later date (on a 2-year agenda from the strategic plan); the advertising plan will be addressed in the next Legal/Legislative Committee meeting although a separate advertising committee has been appointed; criminal background checks have been referred to staff.
4. Standardized Forms – Commissioner Ezernack reported that Commissioners received a copy of the locked PDF Buy/Sell Agreement fill-in form. She stated that there is a very cumbersome way to break into the form and anyone who sets out to do this would be doing this in a malicious way. The form does work for the everyday purpose that is needed. Commissioner Ezernack made motion, seconded by Commissioner Stafford, to make the form available on the Louisiana Real Estate Commission website for use. Motion passed without opposition.
5. Strategic Planning – Commissioner Caffery stated that the strategic plan is being executed. In the area of education, the first part of a three tier program to overhaul education has been approved. In the area of agency, a special committee has been appointed to discuss over time. In the area of advertising, a clean copy of the advertising guidelines is being worked on. In the area of fees, a motion was made to keep the fee structure as it is currently set.
6. Advertising/Technology – Commissioner Burns reported that a subcommittee has been appointed to review the advertising guidelines.
7. Errors & Omissions – Commissioner Songy stated that a meeting will be held in April 2011 and a proposal for bids will be prepared.

## **DIRECTORS REPORT:**

Mr. Unangst stated on the ongoing building report. A sewer test was performed and no leaks were found. This has been eliminated as a possible cause for the slab elevation.

Mr. Unangst reported on the Train the Trainer course. After reviewing the course evaluations, there were no complaints from the Kenner and Monroe courses. The predominant criticism was that the course was too long. The individual evaluations are available for review if desired.

The LREC newsletter will be reassuming on a monthly basis. Any commissioner is welcomed for ideas, articles, or comments. The newsletter will incorporate Commission news as well as other pertinent news to licensees. LA Realtors will be posting a link to their website with the newsletter.

Mr. Unangst publicly thanked Norman Morris and Malcolm Young for inviting him to outreach meetings.

Mr. Unangst introduced Mr. Marx Sterbcow who shared his expertise on RESPA.

Mr. Sterbcow entertained questions from the Commissioners. Commissioner Trapani stated that there have been numerous concerns from vendors as to whether or not it is legal to offer free education. Mr. Sterbcow stated there is a value for continuing education credits in Louisiana, whether it is from a real estate school or from associations across the state. The problem arises when the vendor subsidizes the licensee's cost for the CE credits, which could be anywhere from \$60 to \$120 based on the 12 CE credits per year. The value for the free continuing education would be a violation of RESPA. Commissioner Stafford questioned about the local boards. She stated that dues are paid to the boards and that continuing education is part of those dues. Mr. Sterbcow stated that some boards do actually charge non-members for CE credits. If part of the dues that are charged to members goes toward CE for the licensees, this would be acceptable if the board pays for the vendor. If title companies are giving free CE courses with lunch, this would be a violation of RESPA, as they are subsidizing the licensees cost that they would otherwise pay when obtaining CE credits. Commissioner Flavin questioned which groups are regulated. Mr. Sterbcow stated that the rule states that any person who receives a kickback would be in violation. Some defense attorneys are arguing that it is only entities that are considered a settlement service provider. Commissioner Songy questioned whether dues that are paid to boards must be earmarked or allocated towards education fees. Mr. Sterbcow commented that no portion of dues must be marked specifically towards education. Commissioner Caffery questioned if it would be advisable if we offered a resolution in regards to RESPA violations. Commissioner Trapani stated that we do not have any jurisdiction over RESPA violations but that we could possibly impose a resolution to penalize a licensee who receives free education. Mr. Sterbcow stated that if a title company came in and taught a course for free, this would not be a RESPA violation as it comes under a RESPA education exemption. If the vendor is picking up the cost of the course, then it would become a RESPA violation. Commissioner Ezernack suggested that the topic of RESPA be included in an upcoming article of the LREC newsletter. Mr. Sterbcow stated that he would assist in an article. Commissioner Stafford stated that she did not think that the Commission could penalize licensees for attending free education courses. Ms. Edwards, legal counsel, stated that the Commission cannot take any action against licensees as this is not something included in our law or rules. This is a federal regulation.

Public Comment – Mr. Norsworthy stated that he often is paid by local brokerages and boards to come in and teach a course. The board or brokerage will offer the course for free. The cost is sometimes subsidized by the vendor and often different vendors will come and sponsor breakfast and lunch. He questioned as to if this was a violation. Mr. Sterbcow stated if the brokerage had paid for the CE, this would have been fine; the problem arises when vendors subsidize the cost. Mr. Johnson commented that he feels comfortable with the Commission's stance on sharing Mr. Sterbcow's expertise via newsletter but he stated that there are different opinions due to the fact that continuing education is a requirement for licensing. He feels that this is a good approach by the Commission to provide information on the RESPA issue. Ms. Dufrene questioned whether an instructor will be allowed to bring preprinted advertising material such as pens, notepads, etc. to an education course. Commissioner Trapani stated that the point of education is for pure education, not promotion. Ms. Edwards cautioned that the Commission does not have anything in the laws or rules that prohibit the promotion. Commissioner Ezernack suggest that a notification be sent to the instructor list that self-promotion will not be allowed in classroom settings.

The Commission thanked Mr. Sterbcow for speaking at the meeting.

Mr. Unangst discussed the Gulf Coast Recovery Fund. Mr. Unangst stated that the Commission does not have any support, jurisdiction, or regulation over this subject. Information seminars are being held on

the subject as it may be helpful to licensees. These informational seminars are not sponsored or endorsed by Louisiana Real Estate Commission, Louisiana Realtors, or any local board.

Commissioner Bono commented on the Boundary Lines newsletter and stated that he would like to see an article from the executive director. Mr. Unangst stated that there will be a Chairman's Corner section on the newsletter.

Commissioner Ezernack commented that she wants to further disclose that the Commission has no involvement with the Gulf Coast Recovery Fund. Mr. Unangst stated that there will be an upcoming article in the newsletter of the upcoming information meetings that discloses that we have no sponsorship. Commissioner Ezernack does not feel that this should be included in the newsletter. The decision was made to not include this item in the upcoming newsletter. Mr. Morris stated that Louisiana Realtors has sent out notifications to their members with the same information that has been discussed. Mr. Johnson stated that the claims process through Louisiana Realtors has ended and there are now different avenues to take through different attorneys or the Gulf Coast Recovery Fund. There is no support by any party for particular attorneys.

Commissioner Songy would like to place the topic of self-promotion by educators on next month's agenda. Ms. Streater questioned if the Commission can place a restriction of the amount of time spent on subject matter during an education course. She feels that by mandating this it would keep self-promotion out of the class time. Commissioner Trapani stated that this will be discussed at next month's meeting.

**UNFINISHED BUSINESS:**

None

**NEW BUSINESS:**

Commissioner Stafford stated that she sits on the Education Certification Committee for ARELLO and the will be holding a conference call. She asked that if anyone has any questions or topics for the upcoming agenda for the next ARELLO meeting to please let her know.

Commissioner Ezernack made motion, seconded by Commissioner LaNasa Evans, to approve the stipulations and consent orders in the cases indicated in their memorandum dated March 7, 2011. Motion passed without opposition. (Attachment B)

Commissioner Ezernack stated this may be her last meeting as her term expires in April 2011. She thanked everyone for the opportunity and experience. Commission members thanked Commissioner Ezernack for her service. Commissioner Ezernack stated she will continue to serve until she is replaced.

There being no further business, Commissioner Stafford motioned to adjourn meeting, seconded by Commissioner Songy. Motion passed without opposition.

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FRANK TRAPANI, CHAIRMAN

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PATRICK T. CAFFERY JR., SECRETARY