

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 210
9:00 a.m.
September 13, 2006

MINUTES

STAFF MEMBERS PRESENT:

Derek B. Miller, Division Director
Jon R. Brown, Enforcement Director
Mark Fagergren, Licensing/Education Director
Dee Johnson, Chief Investigator
Shelley Wismer, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Amanda Orme, Mortgage Education Coordinator
Celia Corey, Division Staff
Charles Smalley, Investigator
Van Kagie, Investigator
Craig Livingston, Investigator
Carlos Alamilla, Investigator
Ken Benson, Investigator

COMMISSION MEMBERS PRESENT:

H. Blaine Walker, Chair
Bonnie Peretti, Vice Chair
Sam Samson, Commissioner
Gary Hancock, Commissioner
Kay Ashton, Commissioner

GUESTS

Linda Leavitt
Tammy Lund
Lance Miller
Arnold Stringham
Kevin Swenson

The September 13, 2006 meeting of the Utah Real Estate Commission began at 9:02 a.m. with Chair Walker conducting.

Approval of Minutes

The minutes for August 16, 2006 were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT – Derek B. Miller

Director Miller and Mr. Johnson spoke at the UAMB conference last week in St. George. During this same time the Division had five investigators in the St. George area to visit real estate, mortgage, and appraiser offices. The Division is seeing non-licensees getting our licensees in trouble.

Director Miller reported some Performance Report figures by the staff to the Commission. He said the usual amount of new agents applying are approximately 350 per month. In the month of August the Division received 861 new licensees, and the turnaround time to process a license is currently three days. At this same time, the Division processed 1500 change cards (up from the average of 500-700). The average time to process these change cards is two days.

Director Miller said the Division would like to make a change to Rule 162-9.5 regarding the time frame to get a continuing education course approved from 60 days to 30 days. He said the Division can review and approve/deny a course in the shorter time period, and the 60 days seemed to be too long. After some discussion, a motion was made and approved unanimously to make the change.

INVESTIGATIONS REPORT – Jon R. Brown

Mr. Brown reported in August the Division received 43 written complaints, screened 4 cases (no cases opened), opened 8 cases for investigation, closed 37 cases, leaving the total number of open cases at 130. The breakdown on these new complaints is as follows: 1 short sale; 5 for failure to supervise; 9 on loan fraud; 8 on trust account or property management; 4 for unlicensed activity; 2 for people taking commissions around their brokers; 4 for agency problems; 4 on dishonest dealings; and 7 for misrepresentation.

The Continuing Education audits showed there were 13 new cases opened, 2 cases were closed, 2 stipulations were signed, leaving the number of open cases at 44.

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported the statistics are continuing to grow. From September 2005 to August 2006, there has been approximately a 20% growth in real estate. The mortgage and appraiser industries have also shown significant growth. He said the licensing staff is doing a good job in processing the amount of the large amount documents being received.

On August 8-9, 2006 there was a 2 day seminar with Pearson Vue (formerly Promissor) and a select group to review every question on the state and general part of the exam. The main focus of this seminar was to consider the outline for the Utah portion of the exam. In the Utah Candidate Handbook on pages 18-19, it shows the current outline for the Utah state exam. Mr. Fagergren handed out a proposed list of modifications to that outline as recommended by the group of people in this committee. The emphasis on the outline was dramatically shifted. There are some new topics that are currently not being tested. The Commission asked about adding questions on adverse possession, eviction proceedings, etc. and putting back in the

section on Statutory Standards. A motion was made and accepted to approve the outline with the modifications noted above.

Mr. Fagergren mentioned the upcoming Instructor Development Workshop ("IDW"). It will be held on October 26 and 27, 2006. This is where all of our pre-licensing and continuing education educators meet to be trained on education and talk about rules. The Commission is invited to attend to provide feedback and interaction with the attendees.

Mr. Fagergren handed out an outline on the 9-hour portion of the new agent course proposed curriculum. This course must be taken during the first two years of their license. The other 3 hours of the required 12 hours would be the Core Course. Ms. Wismer said the earliest that the rule change regarding the new agent core course could be made effective is October 24, 2006, which would be after the regular October 18th Commission meeting. Mr. Fagergren was hoping the Commission could come to an understanding so the outline could be announced to the IDW in October. The Commission will review the outline during the course of the day and announce its decision at that time.

LICENSE HEARING: CLOSED TO PUBLIC

10:03 Taige Eoff – Application for License
 Theodore Kanell, Attorney
 Carlos Matamors
 Mika Pearson
 Justin Udy, Realty Executives
 Paula Jensen, Mother
 Katy Monroe

11:15 – 12:30 Public Input Session: Distance Education for Continuing Education and Core Course Discussion

Attendees:

Linda Leavitt	Tammy Lund
Lance Miller	Keith Jepps
Kevin Swenson	Arnold Stringham
Anita Magieke	Sherry Gosdis
Lee Holt	Lori Chamberlain
Jerri Snarr	Abdolreza Abtahi
John H. Schoppe	Bob Bard
Hamid Hessein	Michael Hepworth
David Frank	Scott Tanner
Martell Stringham	Jon Little
Nicholle Solden	

Director Miller began the Public Input Session by apologizing for the length of the previous hearing and the late start to this meeting. He mentioned the two topics being

discussed today will be distance education for continuing education, and discussion on the core course. The purpose of our continuing education program is to have education that is the best quality, effective, informative, helpful, and useful in the profession. Education should also help build professionalism and protect the public. On the topic of the core course, how does the Division come up with a core course that is the best quality possible? Does it continue to make sense to have the Division produce it, or do we rely on our education providers to do something similar to pre-licensing education now which is done by following a course outline? If the Division continues to be the producer of the core course, is it something the Division ought to offer for free on it's website so anyone can look at it anytime? These are the types of thing we would like to talk about today. With that, I'll turn the meeting over to Mr. Fagergren so he can go into more detail before we open it up for public comment.

Mr. Fagergren said he was speaking with Director Miller about some of the confusions that licensees had between the Board of Realtor's Ethics course, the Division's Core Course, ARELLO certification, and live (active) vs. passive education. Currently, there are 36 courses approved with ARELLO certification on our website and none from Utah providers. The main goal is to have quality education and giving licensees the options of good, quality education.

In the mortgage industry there is no ARELLO to certify their courses. The mortgage industry has adopted a similar standard used by the real estate industry for their rules. They have said the Commission can approve courses, and the Commission has delegated the process to Mr. Fagergren and his staff. Currently in the mortgage industry there are 52 distance education courses that students can take at their choice for their continuing education. Only 15 of those courses are out of state. There is also the 20-hour course for pre-licensing education, and the 40-hour PLM course on-line with successful results. This system seems to be working well.

If our goal is to have the best education for our licensees, the system we are locked into now only leads to confusion and the education is not as good as it can be. We are here today to hear from the public so the Commission can decide if they want to modify the system. At this point, Chair Walker opened the meeting for public comments.

The comments and concerns are summarized as follows:

If the core course were offered to the schools as an outline to be covered, there would be an inconsistency of presentation because instructors vary their approaches. The core course should be a standard message given to everyone that is licensed.

The number one concern expressed by licensees is access to good education. There was a big concern to get distance education courses on-line. It would be a good thing to offer classes on-line because they offer a level of involvement and the licensee must interact with the course.

There was conversation on changing real estate education to follow the mortgage education program. Opinions expressed said the mortgage courses taken were improved and more restrictive than any real estate course. A licensee must be constantly interacting with the course every couple of minutes.

There should be an outline of certain characteristics the Division wants in a course so the schools can cover all the requirements. The Division must give the schools time to get the courses up and running. Perhaps there should be a committee to decide what should be covered in the core course. The core course must cover the new rules, and keep them up-to-date on the new laws and forms.

Chair Walker closed the public session by summarizing the comments made today. The approval process currently in place seems to be fine. The Division and Commission have agreed to change the 60 day approval process for course approval down to 30 days. It was expressed that licensees want courses more accessible, on-line and interactive. On the topic of the core course, it was suggested the Division develop an outline covering things that are critical, and allow the providers to develop a course that covers the outlined topics. A suggestion was made to develop a committee or task force that might review the continuing education and core course to help develop courses and come up with suggestions.

Mr. Fagergren said he appreciated the comments made today. He believes the issues are addressing the unspoken majority of licensees. He said something needs to be done to strengthen standards and give the licensees options.

Commissioner Sampson said he appreciates the education providers in the state and that he has very seldom been disappointed in the quality of the courses.

Director Miller thanked all those attending and their comments.

Review of Stipulations

Armond J. Werrett

A motion was made to go into an Executive Session from 12:00 p.m. to 12:30 p.m. This was a working lunch.

LICENSE HEARING: **CLOSED TO PUBLIC**

12:30 David Showalter – Disciplinary Action
Thomas L. Howard, Attorney
Patricia Showalter, Wife
Martha Derosier, Witness
Richard Derosier, Witness
David Mecham, Division of Real Estate Investigator
Telephonic Testimony of Witnesses:
Dr. Edmund T. Presley

Nadia M. Presley, Wife of Dr. Presley

Note: Commissioner Sampson said that he knows Mr. Showalter. Mr. Showalter and the Commission have agreed that this should not be a problem.

A motion was made to go into an Executive Session from 5:10 p.m. to 5:40 p.m.

RESULTS OF EXECUTIVE SESSION

Informal Hearings:

Taige Eoff - Denied

David Showalter – License will be immediately suspended for 3 years, and he is required to pay a \$2,500 fine.

Stipulations:

Armond J. Werrett - Approved

OTHER BUSINESS

Mr. Fagergren said Lance Miller has developed an on-line core course as well as several other courses. He asked for the Commission's approval on using the on-line core course. A motion was made and passed unanimously to approve the use of this on-line core course.

A motion was made and accepted to adjourn the meeting at 6:00 p.m.