

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 210
9:00 a.m.
December 20, 2006

MINUTES

STAFF MEMBERS PRESENT:

Derek B. Miller, Division Director
Shelley Wismer, Assistant Attorney General
David Mecham, Investigator
Tiffeni Wall, Real Estate Education Coordinator
Renda Christensen, Board Secretary
Amanda Orme, Mortgage Education Coordinator

COMMISSION MEMBERS PRESENT:

H. Blaine Walker, Chairman
Bonnie Peretti, Vice Chair
Doyle "Sam" Sampson, Jr., Commissioner
Gary R. Hancock, Commissioner
Kay Ashton, Commissioner

GUESTS

Todd Anderson	Curtis Bullock
Brad Anderson	Lance Miller
Kevin Swenson	Glen Welker
John Schoppe	Michael Hepworth

Mr. Dee Johnson and Mr. Mark Fagergren are on vacations this week. Filling in for Mr. Johnson is David Mecham, and in for Mr. Fagergren will be Tiffeni Wall.

The December 20, 2006 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chairman Walker conducting.

Approval of Minutes

The minutes for November 15, 2006 were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT – Derek B. Miller

Director Miller said at last months meeting there was some discussion on R61-2-20(1) Rights and privileges of real estate licensees. The statute currently states Principal Brokers and Associate Brokers may fill out any documents associated with the closing of a real estate transaction. There was the potential to amend the statute to delete associate broker and just leave principal brokers. The other suggestion is to have branch brokers replace associate brokers in the statute. Director Miller asked what

the pros and cons would be in changing the statute. Commissioner Hancock said some large offices have as many or more associate brokers than some small offices have sales associates. The problem was called to Commissioner Hancock's attention by a principal broker. An associate broker had prepared closing documents, closed the transaction, had an interest in the property and, consequently, the earnest money was not deposited with the brokerage in the principal broker's trust account. There was no sequence of events where the principal broker could monitor the event. There was also no title insurance issued in the transaction and no errors and omissions insurance issued. Commissioner Hancock said his recommendation would be to change the statute.

Commissioner Peretti asked if it was in the company policy that the associate broker could act in such a manner. Commissioner Hancock said it was not defined in this company's policy. Director Miller said perhaps it could be handled in-house with a policy change.

Chair Walker said it could be handled with a few simple changes to say the principal broker or associate broker with the supervision of the principal broker. Director Miller said perhaps it could read the principal broker or an associate broker designated by the principal broker. Commissioner Peretti said adding branch broker to have the same authority as the principal broker in this case. Director Miller said he will approach some of the industry groups to see what they think would be the appropriate course. A motion was made to send out some proposed verbiage to the Utah Association of Realtors and other related groups. The motion passed unanimously.

Director Miller said another item for discussion deals with the potential for a rule change. He said the Division would work on revising R162-2-2, Licensing Procedure, to certify real estate instructors. It is not the Division's intention to change any of the substance of how a real estate education instructor is certified, rather the method that is being used. Currently the application is about 3-4 pages in length and the reason is for the point structure. On the mortgage side there seems to be a better process by having the application say the qualifications you need to meet, here is the kind of experience you need to have, send us documentation showing you have met this kind of experience. Director Miller, with the approval of the Commission, would like to begin drafting a revised rule to that effect. A motion was made and approved to direct Director Miller to start a draft of R162-2-2 to simplify the form on certifying real estate continuing education instructors.

INVESTIGATIONS REPORT – David Mecham

Mr. Mecham reported in the month of November there were 45 written complaints, 27 complaints were screened (no cases opened), 30 new cases opened, 8 cases closed, leaving the number of open case files at 178. There were 2 Stipulations/Orders signed by the Commission, and 2 Petitions or Cease & Desist orders issued.

The Continuing Education audit reports show there were 8 new audit cases opened for investigation, there were 3 audit cases closed, leaving the number of open cases at 26.

Commissioner Peretti asked Mr. Mecham what the Division has been seeing in the types of complaints or problems. Mr. Mecham said the majority of cases being seen are for fraud (i.e., forged documents, forged signatures, etc.).

EDUCATION/LICENSING REPORT – Tiffeni Wall

Ms. Wall said some of the guests here today are advocates for pre-licensing schools and on-line education. On an average day Ms. Wall receives 4-5 education questions regarding on-line education for the 90 hour pre-license course. Chair Walker turned the time over to Todd Anderson from CaliforniaLicensing.net.

Discussion on Pre-Licensing Distance Education

Guests attending for the discussion were Todd and Brad Anderson from the CaliforniaLicensing.net company. Kevin Swenson, John Schoppe, Lance Miller, Glenn Welker, Curtis Bullock, and Michael Hepworth were others attending from the industry.

Mr. Miller said he has been working with the Division in getting his mortgage courses approved. He said their courses are approved by the Division and not ARELLO approved. Mr. Miller said the pass rate for his school shows their school has 50% of the market share on PLM education. The PLM pass rate is 30 points above the state average, and pre-licensing education is 20 points above the state average.

Chair Walker asked Mr. Anderson if his courses were available for the Division to review on-line. Mr. Anderson said he will provide the Division with a log in so they can review the courses. Director Miller said current administrative rules don't prohibit on-line, the issue is the Commission and Division has never approved on-line education. Director Miller said he believes the issue is on quality not necessarily the method of education. In the mortgage industry there is a higher pass rate for those taking courses on-line vs. live instruction. Ms. Wismer said the pre-licensing rules don't address on-line in any, but there are some other rules that might need minor adjustments.

Mr. Schoppe said their school has wanted to do distance learning. Their concern is that they don't want to spend all the time and money to do a digital course without some kind of indication as to if it will be approved. Chair Walker said the Commission and Division would want to see any course before it is approved.

Director Miller said the Commission has directed the Division to come up with a rule that would outline standards for the approval of distance continuing education. He would recommend the rule be broadened to have standards for both distance education and pre-licensing education. This would send a message in two respects, first that appropriate and quality on-line pre-license education can be approved, and second, what the standards are for approval. A motion was made to accept the suggestion by Director Miller and direct the Division to include pre-licensing (to include broker courses) and distance on-line education; also to develop standardization to let the providers know what will be expected to get a course approved. The motion carried unanimously.

LICENSE HEARING: **CLOSED TO PUBLIC**

10:08 Robert Barber – Application for License

Review of Stipulation

Karin G. Schiller

A motion was made to go into an Executive Session from 11:13 a.m. to 11:30 a.m.

RESULTS OF EXECUTIVE SESSION

Informal Hearing:

Robert Barber – The hearing will be continued to be rescheduled within a 90 day period. Prior to the hearing being rescheduled, Mr. Barber shall provide information and documentation to the Division with regards to his transactions and referrals in business in making referrals to buyers in Utah. This information will be considered when his hearing is rescheduled.

Stipulation:

Karin G. Schiller - Approved

Informal Hearing:

11:37 James Wariner – Application for License
Mr. Wariner did not appear.

A motion was made to go into an Executive Session from 11:41 a.m. to 11:43 a.m.

RESULTS OF EXECUTIVE SESSION

Informal Hearing:

James Wariner - Denied

A motion was made and accepted to adjourn the meeting at 11:44 a.m.