

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 210
9:00 a.m.
April 18, 2007

MINUTES

STAFF MEMBERS PRESENT:

Derek B. Miller, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education/Licensing Director
Shelley Wismer, Assistant Attorney General
Renda Christensen, Board Secretary
Dave Mecham, Investigator
Carlos Alamilla, Investigator
Lesly Wastlund, Investigator
Amanda Orme, Mortgage Education Coordinator
Tiffeni Wall, Real Estate Education Coordinator

COMMISSION MEMBERS PRESENT:

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

The April 18, 2007 meeting of the Utah Real Estate Commission began at 9:02 a.m. with Chair Walker conducting.

Approval of Minutes

The minutes for March 21, 2007 were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT – Derek B. Miller

Director Miller welcomed the public to the meeting. He said the Caravan last week had a good response and that Commissioner Sampson attended the meeting in St. George, and Commissioner Peretti attended in Park City. Feedback from those who attended was complimentary and were happy to see representation from the Division. Director Miller said pre-licensing education, continuing education, and the quality of courses were a main concern particularly in the outlying areas of the state. Commissioner Peretti said fraud is a major concern and those attending were pleased it was addressed by the Division.

Director Miller said the Mortgage Asset Research Institute (MARI) report has listed Utah as number one on their list for mortgage fraud. He said his first response was one of

embarrassment and that this was unacceptable. Most people think of fraud as syndicates of people going out creating fraud similar to organized crime-type. Director Miller said he believes that while this is certainly one form of fraud, it is still an issue of little things adding up to big things. Probably 99% of our licensees are hard working individuals and it appears to be the 1% who works outside the law on their transactions. Director Miller said with SB199 in place the Division has the tools to help with fraud, but it will take everyone's help to fight fraud.

Ms. Wismer said in addition to Rules 8 and 9 which will be discussed today, there are other rules that are in the public comment period now. There is the change to Rule 4.1 replacing the word "closing" with "settlement", and a minor change to Rule 1 in the definition section. There is the Division's re-write of the renewal and reinstatement rule in Rule 3, and a change to Rule 7 regarding complaint that will change "notice of complaint" to a more generic complaint. Rule 6 explicitly says you can't be the real estate agent and provide settlement services working on the same transaction. All of these Rules are in the same stage, and May 23 would be the earliest effective date for the rule.

INVESTIGATIONS REPORT – Dee Johnson

Mr. Johnson reported in March the Division opened 9 new continuing education audit cases, 5 cases were closed, and 3 Stipulation/Orders were signed by the Commission, leaving 23 as the total number of audit investigative cases.

There were 49 written complaints logged, 31 complaints were screened (no cases were opened), 11 cases were opened for investigation, 17 cases were closed, leaving 176 open case files. There was one licensing hearing, 6 Stipulations/Orders signed by the Commission, and 2 Petitions or Cease & Desist Orders issued.

EDUCATION/LICENSING REPORT – Mark Fagergren

Director Fagergren said in the mortgage industry they are required to have two hours of ethics in the industry. He believes that even those in the industry who are not a part of this fraud it still requires everyone to be aware of and to bring it to the attention of the Division. On the same type of topic, on-line renewal has been around for over about two years and every quarter when the Division publishes its newsletter, there are always those who seem to test the limit and think they are the exception to the rule.

The newsletter has gone to the printer. Mr. Fagergren wanted to thank Tiffeni Wall for her hard work on the Caravan as well as getting the newsletter to the printers and meeting the deadlines.

Mr. Fagergren handed out a copy of the Twelve-Hour New Agent Course. This document has been discussed and reviewed several times, and will be sent to the schools to instigate. The Division has received a number of outlines from individuals and schools wanting to get courses approved. A decision will be made by the Division on which courses will be approved as "core" courses.

Chair Walker mentioned having a course on doing commercial REPC's along with the residential REPC's approved as a core courses. Mr. Fagergren said the Division has consulted with Curtis Bullock from the Utah Association of Realtors (UAR) on this topic. If a person is a member of the UAR they have the ability to use the forms produced by the UAR, and if they are not a member, they will have to use forms produced by the company in which they are affiliated.

Mr. Fagergren said there are over 900 courses approved for continuing education which cover many topics. There courses in fraud, professional ethics, and real estate and mortgage fraud. The new agent course will require 6 hours of core topics and 6 hours of elective courses. A person can choose to have all 12 hours in core topics. This new agent course will start on July 1, 2007, but it went into effect on November 16, 2006.

PUBLIC INPUT SESSION

9:30 – 11:00 Discussion on proposed education and licensing rules R162-8
and R162-9

Those in attendance are:

John H. Schoppe, Security Education Company
Glenn Welker, Salt Lake Board of Realtors, Education Committee
John Norman, Utah Mortgage Lenders Association
Sherry Talbot, Utah County Association of Realtors
Matt Schramer, Broadband Learning, Inc.
Kyle Moon, Broadband Learning, Inc.
Kay Sadler, Broadband Learning, Inc.
Edwin Giles, Broadband Learning, Inc.
Linda Leavitt, Preferred Real Estate School
Hamid Hosseini, Preferred Real Estate School
Tammy J. Lund, Utah Real Estate School, NRT
Kevin Swenson, Stringham Schools
Jack Marinello, Security Education Company
Michael Welker, Mortgage Education Connection
Michael Hepworth, Security Education Company
Jennifer Jones, Security Education Company
Laura Montierth, Security Education Company
Heather Rice, Security Education Company
Chad Ahearn, Praedo Institute
Lance Miller, Praedo Institute
Marti Stringham, Stringham Schools
Arnold Stringham, Stringham Schools
Curtis Bullock, Utah Association of Realtors
Ralph Little, Little & Company Real Estate
Mark Appelbaum
Paul Naylor, Stringham Schools
Whitney Gaigh

Traci Symee
Nichole Weisbrich
Michael Gardner, Security Education Company
Carey Anderson, Security Education Company
Karen Post, PX Realtors
Glen Frapples, Mark Kay Cosmetics

Chair Walker thanked all those in attendance today. The public meeting will go from 9:30 to 11:00 a.m. All those speaking today will be allowed 5 minutes. He then turned the meeting over to Mr. Fagergren.

Mr. Fagergren said there have been countless hours spent on these draft rules. They should reflect the intent of the best quality education and are a good faith effort to establish quality education. He highlighted a few areas for discussion: Rule 1, there was a change in definitions to reflect two types of education, traditional and distance. The definition of traditional education is education in which instruction takes place between an instructor and students where all are physically present in the same classroom. Distance education is defined as education in which the instruction does not take place in a traditional classroom setting, but through other interactive instructional methods where teacher and student are separated by distance and sometimes by time, including computer conferencing, video conferencing, interactive audio, interactive computer software, Internet-based instruction, and other interactive online courses.

Rule R162-8.1.2.1 states that except for distance education courses, all courses must be taught in an approved classroom facility and not in any private residence. In Section 8.1.3.3 it states the school director shall certify that the school will not give a student credit for more than eight credit hours per day.

Starting in Section 8.1.6 it has added requirements for schools seeking certification of distance education. It will be easier to get a live course approved than a distance education course.

Section 8.4.6 limits the approved guest lecturers who are experts in related fields to a total of 20% of the instructional hours per approved course. In Section 8.4.1.13 there are two types of instructors: approved instructors and guest lecturers. The current rule has three types adding the adjunct instructors to the list. The Division felt it was too cumbersome to the industry and felt it was better to simplify the system.

In R162-9, Course Application for Certification, it looks as if the entire rule was struck down, but it was felt that sometimes it is easier to start over. In Section 9.1.2.1 it states that except for distance education courses, all courses must be taught in an appropriate classroom facility and not in a private residence.

In Section 9.1.5 it defines how the course will meet the objectives of continuing education by increasing the licensee's knowledge, professionalism, and ability to protect and serve the public.

The Division has expanded the topics for continuing education in Section 9.2.2.1. The Division reviewed other states courses and questions or concerns from the industry and added good topics that have not been addressed before.

Chair Walker opened the meeting to public discussion. Because of the number of those in attendance, a summary of comments and questions is listed for the Minutes.

Jack Marinello, Security Education Company, presented an 8 minute CD from Broadband University showing an example of pre-licensing education might be delivered. On-line learning is exploding and enrollment is doubling every semester. In 40 years of research there has been shown no significant difference between the performance of students in distance learning courses and students in face-to-face lectures. For students living in outlying areas it is difficult and costly to come to a learning center for their education. The CD gave a few samples of interactive questions. The company is asking consideration in support of the proposed rules by the Division of Real Estate.

Concern was expressed about the about verifying who is taking the course. One example would be to have the student go to an off-site testing center, show identification, and take a proctored exam before pre-licensing credit would be given. Mr. Fagergren said there are built-in features to prove who the person is and verify the answers to pop-up questions throughout the exam.

A comment was made about issuing an Instructor Certification and the education required. The rule states the person must have 12 months of teaching experience or attending an IDW. Mr. Fagergren said the Division feels that a person can have enough experience that has not been a teacher for 12 months, but shouldn't be prohibited from being an asset to the industry.

There was a comment about eliminating any live requirements and all live instructors. It will be cheaper to provide on-line courses. There is a serious concern about the quality of education when there are no instructors. It was felt the 50% rule needs to stay.

Not all instructors have the same passion for teaching. On-line mortgage courses in place currently give the student more background. There are substantial barriers to get a course approved which include rules for interaction. For each 2 hour course on-line there are approximately 30-40 pages of typewritten text. This covers a lot more material than courses presently given. Many states are copying the mortgage courses and Texas is currently using the Utah courses. All Principal Lending Manager courses are strictly on-line.

Director Miller asked if members from the Boards of Realtors have any comments. A comment was made that in continuing education course videos people have had to be woken up, made to turn off movies they were watching, babysitting, talking on their

phones, etc. When a live instructor is present the students pay attention. For an on-line course the student must be focused and pay attention to the information. They would love to move from "seat time" to competency based actions in that area, and are in favor of the Division rules.

Several comments were made as to learning better with classroom interaction versus taking an on-line course.

Chair Walker said he wanted to make sure that everyone understands the rule does not do away with live education. The rule will allow the individual a choice as to how they want to take the classes. The Division and Commission appreciate the input given today and the comments will be taken under consideration.

Ms. Wismer invites further written comments within a reasonable period of time. The comment period will be in effect until mid-May.

LICENSE HEARING: **CLOSED TO PUBLIC**

- 11:15 Jesus Delarosa – Application for License
Juan Delarosa, Brother
Nelson Rino, Uncle
Carlos Alamilla, Division of Real Estate acted as a translator for the hearing.
- 11:50 Robert Barber – Continued Hearing
Bryant J. McConkie, Attorney

OTHER BUSINESS

Review of Stipulations:

Dale Jaussi
Larry S. Stephens
Michael J. Harris
Blaine R. Pearson
Deann Densley
Marshall Sharifan
Marvin R. Cartwright

CLOSED TO PUBLIC

A motion was made to go into an Executive Session from 12:30 pm. to 1:00 p.m.

Results of Executive Session

Dale Jaussi – Approved
Larry S. Stephens - Approved
Michael J. Harris - Approved
Blaine R. Pearson - Approved

Deann Densley - Approved
Marshall Sharifan - Approved
Marvin R. Cartwright - Approved

A motion was made and accepted to adjourn the meeting at 1:05 p.m.