

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor Hearing Room

9:00 a.m.
July 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
Tiffeni Wall, Real Estate Education Coordinator
Kurtis Hughes, Investigator
Elizabeth Beazely, Investigator

COMMISSION MEMBERS PRESENT:

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

GUESTS

Jack Marinello
Kevin Swensen
Krystal Miller
Linda Leavitt
Paul Naylor
Karen Post
Curt Webb
Lance Miller
Stefanie Tugaw

The July 18, 2007 meeting of the Utah Real Estate Commission began at 9:03 a.m. with Chair Walker conducting.

Elections were held for a new Chair and Vice Chair. After elections, the new officers are as follows: Blaine Walker will remain Chair, and Sam Sampson is the new Vice Chair.

Approval of Minutes

The minutes for May 30, 2007 were approved as written.
The minutes for June 20, 2007 were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT – Derek B. Miller

Director Miller congratulated Chair Walker and Vice-Chair Sampson on their newly elected positions.

Director Miller said at the conclusion of the last meeting Mr. Fagergren met with the school providers and will be letting us know about that meeting and about the changes in the education rules. The newsletter will be coming out the end of this month. There are several mentions of the new changes coming up, and hopefully, it will inform the majority of people.

Director Miller and Mr. Fagergren met with the C.E.O's of the different Boards, and they were all very excited and positive about the work of this Commission and the education staff. In some ways it affects the Boards because they keep a stock of video tapes so when people come in at the end of the month to get their CE completed, they are used to asking for a video to watch. Now, the Boards can give the individuals a list printed from the Division's website of on-line courses that have been approved and certified.

Yesterday, Director Miller and Mr. Johnson attended a seminar that was held to inform the UMLA members about the issue of fraud. In attendance was Dr. Jim Croft who was the head of the Mortgage Asset Research Institute (MARI). Utah was recently reported as being number one in mortgage fraud and then revised it to become number five based on additional data. One of the things they learned from Dr. Croft is that it is an on-going process because they are constantly getting new data and reports of possible fraudulent transactions that could be a number of years old. This will affect the rankings. Director Miller mentioned that last year Utah was shown as number two on the list, and when the new report for this year came out, the number two rating went down to number seven. There was some growing unrest among some of the attendees as to "why isn't the Association doing anything about this", or "why isn't the State or the Federal Government doing anything." We are doing the best we can do with the tools we have and what we know. We are also asking ourselves every day what new tools we need, and how can we learn to do our jobs better. Director Miller is optimistic that we can solve this problem.

Director Miller said a few years ago when continuing education audits were first established, there was a fee structure for those who did not finish their CE. He would like to modify the structure, essentially to double the fines. In the cases where those who have represented they have completed their CE and haven't taken any, Director Miller is proposing the revocation of the license. The Commission was in favor of both suggestions.

Director Miller brought up the topic of split closings. The Escrow Commission is considering a rule outlining what they call a "courtesy closing" where the closing is being done in two different locations; also, when the insurance product is being offered by two different insurance companies. Director Miller opened the floor for further

discussion as to whether a change is needed in the REPC. Chair Walker said his feelings on split closing is first of all, he doesn't like them. He believes they create problems and the possibility of loan fraud goes up tremendously. Commissioner Ashton asked about a legal concern. Commissioner Peretti agreed with the idea of denying split closings.

Mr. Marinello commented that the title insurance industry should have the principals in the transaction to make the decision. He believes a change in the REPC would definitely help.

Mr. Webb addressed the issue of having a single company responsible for disbursing the money. He said technically it's not a split closing and that it is a complicated issue. Having it in the REPC would require an additional negotiation.

Ms. Tugaw spoke in favor of split closings. If there was one title company that did the disbursements and was responsible, that it would be agreeable. She would recommend using a title company in which county the property is located. There is a service level and a convenience level that needs to be addressed for the clients and agents.

INVESTIGATIONS REPORT – Dee Johnson

Mr. Johnson introduced two new investigators: Kurtis Hughes has a strong real estate background and will be investigating primarily real estate transactions; and Elizabeth Beazley who has a strong mortgage background and will be investigating mortgage transactions. Both of these people will help strengthen the investigative staff.

Mr. Johnson said Director Miller previously mentioned the UMLA conference, but he didn't mention that he was the final speaker and did an excellent job. Mr. Johnson said he is continually surprised and impressed when we have a conference which was based on fraud, how many of our licensees do not see it, they hear about it from others. As the representative from the U.S. Attorney, Dr. Croft, Doug LeDoux from the Insurance Department, all expressed what they see in the amount of fraud, Mr. Johnson is still surprised that so many of our licensees who are the good hardworking people, don't see it or get involved in it. There is a small group who continue to do fraud many times over.

The Mortgage Fraud Task Force met yesterday. The Division is more of an advisor than anything else. We have brought to the attention of the Task Force many names that really need to be addressed. A target list was created to look into and they are assigning criminal investigators and prosecutors to each group. Currently the list has over 30 names, concentrating on 10 names, with the major portion will be directed toward five.

Mr. Johnson said the Division is seeing a new trend. In order to commit fraud for profit, the value of a property has to be inflated somehow. Recently we are seeing transactions being closed without using title companies, and without using appraisals.

They simply close and record their own documentation. They transfer money to make it look like a sale, and then they come to some of our licensees and manipulate them to put these on the MLS to look like a valid sale so there is now a comparable for an appraisal. After engineering several of these in a row, they turn around and actually obtain a grossly inflated appraisal with a lender who thinks that it is an accurate figure, makes a loan on it, and then everyone draws their money out after the fact. It is a very sophisticated web and the numbers are growing.

The Division has revised the statistics form to consolidate the reports on one sheet. In June the Division received 39 complaints, 20 were screened (with no cases opened), 11 cases were opened, and 22 cases closed, with a total of 179 open cases. Our new investigators will help make a dent in this number.

LICENSE HEARINGS: CLOSED TO PUBLIC

- 10:15 Brandon Smith – License Application
- 10:50 Jarod Mitchell – License Application
- 11:30 James Terwilliger – License Application
Cindy Woodward

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the Division has been preparing for the impact of the new education rules for licensees, schools, and for the Division. In terms of licensees, all brokers were sent a letter shortly after the last Commission meeting when the rule was passed, indicating they would have six different content areas for core topic courses. The prior newsletter indicated there was a change in wind, and the newsletter going out at the end of the month gives more detail.

Mr. Fagergren said there is an individual who has submitted an application who has had a prior claim paid out of the Recovery Fund because of something that happened when he was previously licensed. The person is asking to be re-licensed. Ms. Wismer said the applicant can't apply for a new license until the amount paid out of the Recovery Fund plus interest, at a rate determined by the Division and the concurrence of the Commission has been repaid in full. Chair Walker had Mr. Fagergren read what the Federal Court uses to determine the interest rate. Ms. Wismer said if the applicant feels the interest rate seems unfair, he could ask for Agency Review to review the information. After some discussion a motion was made and approved to use post-judgment rate plus 2%.

- Review of Stipulations
- Fernando Alma Velasquez
- Mark L. Renfro
- Jorge Prado
- Justin D. Johnston

Mario Castaneda

A motion was made to go into an Executive Session from 12:42 p.m. to 1:26 p.m.

CLOSED TO PUBLIC

Results of Executive Session

Review of Stipulations

Fernando Alma Velasquez - Approved

Mark L. Renfro - Approved

Jorge Prado - Approved

Justin D. Johnston - Approved

Mario Castaneda - Approved

A motion was made and accepted to adjourn the meeting at 1:29 p.m.