

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

February 18, 2009

### **MINUTES**

#### DIVISION STAFF PRESENT:

Mark B. Steinagel, Division Director  
Dee Johnson, Enforcement Director  
Mark Fagergren, Education and Licensing Director  
Traci Gundersen, Assistant Attorney General  
Julie Price, Assistant Board Secretary  
Tiffeni Wall, Real Estate Education Coordinator  
Van Kagie, Investigator  
Kurtis Hughes, Investigator  
Charles Smalley, Investigator

#### COMMISSION MEMBERS PRESENT:

Doyle "Sam" Sampson, Chair  
Gary R. Hancock, Vice Chair  
H. Blaine Walker, Commissioner  
Kay R. Ashton, Commissioner  
Stefanie Tugaw-Madsen, Commissioner

#### GUESTS:

Kevin Swenson	Tammy Lund
Karen Post	Paul Naylor
Jack Marinello	David Bornemeier
Linda Leavitt	Lance Miller

The February 18, 2009 meeting of the Utah Real Estate Commission began at 9:10 a.m. with Chair Sampson conducting.

### **PLANNING AND ADMINISTRATIVE MATTERS**

#### Approval of Minutes

The Minutes from the January 21, 2009 meeting were approved as written.

### **DIVISION REPORTS**

#### DIRECTOR'S REPORT – Mark B. Steinagel

Director Steinagel gave an update on Administrative Rule R162-6 Licensee Conduct. This rule was adopted last November and will be effective on February 24, 2009. The purpose of this rule was to identify who had to notify whom of AN inducement

and to allow a broker to notify their principal in the method the broker desires.

Director Steinagel stated that the Division bill passed unanimously twelve days ago. The Director passed out a copy of the bill to the Commission and a summary of the bill to all those in attendance. He explained the provisions of the bill that were relevant to the Real Estate Commission. He also commented that he thought these were improvements to the industry.

Director Steinagel highlighted that the Commission and the Division will be required this year to craft many rules required by the bill. Some of the most important include pre-license education hours, pre-license curriculum, continuing education hours, and continuing education curriculum.

#### ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson commented on how much the Division had accomplished on the legislative side this year. This was thanks to the Commission, Director Steinagel, and other industry leaders.

Mr. Johnson reported in January the Division received 47 complaints; screened 15; opened 4 cases; and closed 16 cases. There is a backlog of cases that will be opened in the next two months but also a large amount of cases that are scheduled to be closed.

There was one stipulation presented to the Commission. The respondent was given the chance to appear to answer any questions the Commission might have and declined to attend.

#### Review of Stipulation:

Ryan G. Wright

#### EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported that in the education report there was a drop between December and January of 521 licensees. He stated that over the last eleven months, there was only an average drop of 216 licensees per month.

Mr. Fagergren received a report from Pearson Vue on sales agent and broker exams performed in 2008. In December, 80 sales agents took the test; 81% passed. There were 22 repeat test takers; 45% passed on a repeat. There were 71 new brokers taking the exam. This number is high since many of them were trying to get in on the old exam. Of those 71 brokers, 76% passed on the first try. There were four brokers that took a repeat test and none of those passed the repeat exam. Mr. Fagergren clarified that in all of 2008, 275 brokers took the exam and just in December alone there was 71.

Mr. Fagergren gave the year- to- date totals for sales agent and broker exams. There were a total of 1,370 sales agents that took the exam for the first time.

There were 78% that passed on the first try. There were 285 repeat test takers and 33% passed on a repeat. There were a total of 275 brokers who took the exam; 79% passed on the first try. There were a total of 22 repeat test takers; 32% passed on a repeat.

Mr. Fagergren expressed to the Commission that they could adjust the minimum competency requirements considering these numbers. They could make the pass rate go higher or lower. He just wanted the Commission to think about this.

Commissioner Tugaw-Madsen wanted to know if there was any tracking. Mr. Fagergren stated that this was hard to track. He opened this question up to some of the educators in attendance.

Chairman Sampson had some additional questions on the Pearson Vue exam data. He wanted to know if the Commission could adjust the test to go higher and modify the test questions. There was a discussion on this issue.

Mr. Fagergren wanted the Commission to be aware of the upcoming Caravan dates:

Tooele	April 23, 2009	9:00 a.m.-12:00 p.m.
Vernal	April 28, 2009	12:00 p.m.-3:00 p.m.
Logan	May 5, 2009	1:00 p.m.-4:00 p.m.
Layton	May 7, 2009	9:00 a.m.-12:00 p.m.
St. George	May 12, 2009	9:00 a.m.-12:00 p.m. 2:00 p.m.-5:00 p.m.
Richfield	May 13, 2009	12:00 p.m.-3:00 p.m.
Moab	May 14, 2009	9:00 a.m.-12:00 p.m.

Mr. Fagergren stated that these dates will be in the newsletter and a flyer that will be going out. He wanted feedback from the Commission on what types of topics they thought needed to be addressed.

#### COMMISSION AND INDUSTRY ISSUES – Sam Sampson

Commissioner Tugaw-Madsen stated that she had a property management broker call her who wanted to open a branch office. She wanted to know if branch broker requirements could be waived for property managers. She wanted to know if this was something the Division could consider changing. A discussion ensued on her questions.

A Motion was made and accepted at 10:05 a.m. to close the meeting for licensing hearing.

#### LICENSE HEARINGS: **CLOSED TO PUBLIC**

10:20 a.m. – 6:35 p.m. Douglas Bates – Disciplinary Hearing Continued  
Representing Douglas Bates: Marshall Witt

Administrative Law Judge Presiding Over Hearing: Steve Eklund  
Division Witnesses: Lionel Paul Crowley, Kimberlee Lofthouse,  
Michael Phadeth Thong

Douglas Bate's Witnesses: Donna Birdsall, Charles Smalley: Division  
Investigator, Douglas Bates

Those in attendance for this hearing were:

Van Kagie, Investigator

Charles Smalley, Investigator

Jennifer Garner, Court Reporter, RPR with CitiCourt

New Exhibits Introduced at Hearing: Exhibit 2 – AllPro Contract

The hearing for Douglas Bates was continued to another date. This date has not yet been determined.

A motion was made and accepted to go into Executive Session from 12:57 p.m. to 1:50 p.m.

#### RESULTS OF EXECUTIVE SESSION

##### Results of Stipulations:

Ryan G. Wright – Approved

A Motion was made and accepted to adjourn the meeting at 5:43 p.m. The Motion was passed unanimously.