

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

September 16, 2009

### **MINUTES**

#### DIVISION STAFF PRESENT:

Deanna D. Sabey, Division Director  
Dee Johnson, Enforcement Director  
Mark Fagergren, Education and Licensing Director  
Traci Gundersen, Assistant Attorney General  
Jennie Jonsson, Hearing Officer  
Renda Christensen, Board Secretary  
Tiffeni Wall, Real Estate Education Coordinator  
Carlos Alamilla, 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:

Rob Ponte  
Irene Kennedy  
Tammy Lund  
Jack Marinello  
Kevin Swenson  
Chad Ahearn

The September 16, 2009 meeting of the Utah Real Estate Commission began at 9:06 a.m. with Chair Sampson conducting. Chair Sampson welcomed Director Sabey.

### **PLANNING AND ADMINISTRATIVE MATTERS**

#### Approval of Minutes

The Minutes from the August 19, 2009 meeting were approved as written.

### **DIVISION REPORTS**

#### DIRECTOR'S REPORT – Deanna Sabey

Director Sabey introduced herself to the Commission. Her background is on the mortgage side, and together with Commissioner Ashton, has served on committees, and with the Utah Association of Mortgage Lenders and their legislation. Director

Sabey has been an attorney since 1993 and practiced since 1995 primarily in the mortgage lending arena. She has been general counsel for ten years for a mortgage banker who is licensed in 42 states and dealt with many regulations. Director Sabey has been in private practice and represented people in property disputes, among other things, and has written articles on RESPA and FEMA related issues. Most recently, she was in-house counsel for an equipment finance company which was different and interesting as compared to real property. Director Sabey is pleased to be the Director, and values the Commission and the input and strength that they give to the industry.

The Division is concerned with short-sales, foreclosure, loan rescue, and loan modifications. Within the next month or so, you should be seeing something on our website that gives consumers information or a place to go if they need assistance.

#### ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson said he really does welcome Director Sabey. He has known her before because of speaking at the UMLA and other functions. She has brought a new perspective to the Division, and of course, she is an attorney. We are all looking forward to working with her.

Mr. Johnson said he talked to Troy Jarvis, who represented a title company. He had a misconception as to what was being conveyed, and what a title company could and could not do regarding short sales. What Mr. Johnson communicated to Mr. Jarvis was as long as a title company was doing their job, and not stepping into the arena of real estate, then the Division doesn't have a problem with them stepping in and helping with short sales. Mr. Jarvis was under the impression that they could not touch them, period. Mr. Johnson was able to put his mind at ease and let him know what he could and could not do.

Mr. Johnson reported he had received a call from Rebecca Jensen and Brad Baldwin at the WFR. Cottage industry companies, basically real estate companies are popping up, which are providing Broker Price Opinions by using the MLS information. They were concerned that the MLS information was being used to put somebody in the position of being competitive with appraisers, rather than acting as a real estate licensee. They will forward their information to Mr. Johnson to review, and also mentioned they have been contacted by Appraisal Management Companies. Mr. Johnson said the Division will be seeing more of this in the future.

There are two stipulations being presented to the Commission. The respondents were given the chance to appear to answer any questions the Commission might have and declined to attend.

#### Review of Stipulations:

Thomas J. Schultz  
Virginia Burr

Mr. Johnson reported in August the Division received 42 complaints; screened 35

complaints; opened 12 cases; closed 13 cases; leaving 110 total cases. Mr. Johnson said the Division is short a Chief Investigator, Dave Mecham. Mr. Mecham is having some health issues that need to be addressed. What we are going to see in all three professions is the steady increase in the number of open cases. Our complaints are still coming in at a steady rate, and we are seeing more serious complaints.

#### EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren mentioned there is still a slight decline in the numbers of licensees. The principal brokers are given a few days after the first of the month in which to renew their licenses, which is not the case for all other licensees. The reason behind this is that other licenses are tied to the principal brokers, and if the principal brokers don't renew on time, everyone under them will be inactivated.

Mr. Fagergren commented on working with Director Sabey. She worked on the first mortgage exam that was prepared, and was a calming influence at a hectic time. She has good judgment and is very concerned for our industry.

Mr. Fagergren thanked the Commission for approving the 120 hour sales agent curriculum last month. That information is now available on our website, and our schools have been notified. There are new continuing education hours going into effect at the beginning of the year, new pre-licensing hours, and mortgage is changing from 20 hours to 60 hours at the first of the year.

Mr. Fagergren reminded those in attendance, with respect to this pre-license education, if a person signs up anytime in 2009 they have until the end of March to complete their education under the old standard. If the Division receives an application, and it doesn't reflect they have completed 120 hours, they will be asked to take additional hours to meet the requirement.

The Division's Instructor Development Workshop will be held on October 19<sup>th</sup> and 20<sup>th</sup>, and Mr. Fagergren is encouraging the Commissioners to attend. This is an investment the Division makes to our industry by bringing in an expert to help encourage and stimulate the best education possible.

Mr. Fagergren addressed the policy of taking CE within the two-year licensing period. It must be either an approved course, or approved non-certified CE. The Division's policy has always been that you can not duplicate a course during that time frame. The Division would like the rule to be updated to add to words, "non-duplicative", to prevent any confusion on this issue. If a course is being taught every year, they must apply for a new course number so that it is not confused with a course that hasn't been renewed. A motion was made to allow the rule to be changed to insert the two words, "non-duplicative" to the rule. The motion passed unanimously.

COMMISSION AND INDUSTRY ISSUES – Sam Sampson

Ms. Jonsson gave an update on the rule, R162-6.1.9, Token Gifts, has been changed to raise the amount from \$50.00 up to \$150.00. The rule is with Director Giani for her review to make sure it has no appreciable impact on small businesses. After the Division has received it back we will then submit to the Division of Administrative Rules.

If someone were to go on the website for the Division of Administrative Rules, and pull up this section, they won't see new changes for awhile. The Division of Administrative Rules is about three months behind on posting language because they are experiencing technical software difficulties.

Chair Sampson and the other Commissioners received a letter from Desert Edge. The response to this letter will be written by the Division. The information requested in this letter is on the Division's website. Commissioner Walker asked if the Division has seen many Appraisal Management Companies (AMC's) register. Commissioner Ashton said there are a couple of national companies that have come up. He mentioned that almost every mortgage goes through some kind of an automated system that does modeling for appraisals. If you have an appraisal that doesn't fit in their models, it will send up a red flag. If you are a banker, you have to demonstrate the appraisal process. For conventional loans, the appraiser is randomly selected and you can't assign a specific appraiser to a specific loan. Ms. Jonsson said it is a concern for the Appraiser Board. They are currently working on rules, and there was an AMC bill that was passed in the last legislative session. Mr. Fagergren said two rules have been put into effect by the Appraisal Board. One of those is that an appraiser who determines that they are not geographically competent can not be reprimanded or taken off the list. Another rule is that AMC's now have to disclose the amount of compensation paid to the appraiser and the amount being paid to the AMC.

A motion was made and accepted to go into Executive Session from 10:43 a.m. to 10:54 a.m.

A Motion was made and accepted at 10:54 a.m. to close the meeting for licensing hearing.

**LICENSE HEARINGS: CLOSED TO PUBLIC**

11:00 Douglas Larsen – Application for Hearing  
David Webber, Principal Broker  
Carlos Herbon, Principal Broker

A motion was made and accepted to go into Executive Session from 12:07 p.m. to 12:55 p.m.

1:00 Peter Coats – Application for Renewal

Craig S. Cook, Attorney  
Gloria Crawmer, Principal Broker  
Mr. Coats had a court reporter, Donna Ward, record this hearing.

2:50 Wesley B. Williams – Application for Reinstatement

3:00 R. Curtis Payne – Application for Reinstatement  
Scott L. Sackett II, Attorney  
Trent Newbold

4:00 Sundance Erickson – Application for License  
Mr. Erickson's hearing was a telephone hearing. This hearing has been Rescheduled until 8:30 a.m. tomorrow, September 17, 2009

A motion was made and accepted to go into Executive Session from 4:11 p.m. to 4:30 p.m.

4:30 Dustin Christensen – Application for License  
Mr. Christensen did not appear for his hearing.

4:45 Glen Morse – Application for Renewal  
Brian DeHahn

A motion was made and accepted to go into Executive Session from 5:36 p.m. to 6:05 p.m.

#### RESULTS OF EXECUTIVE SESSION

##### Results on Stipulations:

Thomas J. Schultz - Approved  
Virginia Burr - Approved

A Motion was made and accepted to adjourn the meeting at 6:06 p.m. The Motion was passed unanimously.