

**UTAH REAL ESTATE COMMISSION**

Heber M. Wells Building

Room 210

9:00 a.m.

February 19, 2014

**MINUTES**

**DIVISION STAFF PRESENT**

Jonathan Stewart, Division Director  
Mark Fagergren, Education/Licensing Director  
Jeffery Nielsen, Chief Investigator  
Justin Barney, Hearing Officer  
Sterling Corbett, Assistant Attorney General  
Jennie Jonsson, Administrative Law Judge  
Renda Christensen, Board Secretary  
Mykah Travis, Real Estate Education Coordinator  
Jan Buchi, Mortgage Education Coordinator  
John Bickmore, Investigator  
Kadee Wright, Investigator  
Mark Schraeder, Investigator

**COMMISSION MEMBERS PRESENT**

Kay R. Ashton, Chair  
Russell K. Booth, Vice Chair  
Lerron E. Little, Commissioner  
Lori Chapman, Commissioner

**GUESTS**

Peter Stevens	Tammy Lund
Shane Norris	Dan Naylor
Kevin Swenson	Skylar Smith
Cressie Larson	Peter Christensen

The meeting on February 19, 2014 of the Real Estate Commission began at 9:00 a.m. with Chair Ashton conducting.

Commissioner Hancock was excused for illness from this meeting.

**PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes – A motion was made to approve the minutes from the January 15, 2014 meeting. Vote: Chair Ashton, yes; Vice Chair Booth, yes; Commissioner Chapman, yes; Commissioner Little, yes. The motion passes.

**DIVISION REPORTS**

### **Director's Report – Jonathan Stewart**

Director Stewart reported the Division's bill, H.B. 332 went to the House Committee meeting on Friday, February 14, 2014. Everything went smoothly. A statute of limitations section was added to all three industries that copies what the Division of Occupational and Professional Licensing uses. This wording states commencing a disciplinary action under this chapter no later than four years after the day on which the unprofessional or unlawful conduct is reported to the Division; or 10 years after the day on which the unprofessional or unlawful conduct occurred. The Division's bill is 64<sup>th</sup> in line for review on the House floor.

Commissioner Little asked about the new wording and if it addressed any retention rules. Director Stewart said that the record retention schedule can be changed to keep it in line with the statute of limitation, or people know what the statute of limitation is they can retain their records for that long. UAR had mentioned they would encourage educators to follow the statute of limitations.

Vice Chair Booth requested Director Stewart send out drafts of the Division's bill(s) to the Commission in future years. The Commission wants to be kept updated as to what has been proposed, and any changes that are being presented.

### **Enforcement Report – Jeffery Nielsen**

Mr. Nielsen reported in the month of January the Division received 37 complaints; opened 12 cases; referred 1 new case to the Attorney General's office; closed 18 cases; leaving the number of real estate cases at 272.

#### Stipulations for Review:

Kimberly Fry  
Patrick Wiscombe

Both of these individuals were given the opportunity to address the Commission but have chosen not to appear.

### **Licensing and Education Report – Mark Fagergren**

Mr. Fagergren said the statistics show in the past month there were 72 new sales agents; 30 new principal broker; 57 new associate brokers. The market seems to be growing. The licensing staff is dealing with company and branch applications, as are licensees that call Mr. Fagergren who have allowed their licenses to expire for more than one year and will have to re-apply for a license. Mr. Fagergren has had three of these calls within the last ten days. The Division's bill will allow those individuals who have an expired inactive license, from one to thirty days, to renew without needing to complete additional CE.

The Division now has the ability to have licensees print off copies of their license at any given time. The Division is also working on the process to allow a broker to be able to print copies of the licenses affiliated with their brokerage. This is currently not programmed into our system, but the Division has talked to the system developer and

they will see what they can do. The two choices seem to be either having the broker being able to click on each agent and print the license they want, or to click a box and print all the licenses off. It sounded as if the capability of the system is there, but it's just making the change to enable brokers to do what currently the licensees can do now.

Pearson Vue said they will be sending out a new real estate school report this month by the 15<sup>th</sup> of the month. Mr. Fagergren contacted them and they kept delaying the date.

Mr. Fagergren told Pearson Vue that the Commission meets the third Wednesday of every month, and that he wants all these education providers to have these reports by that time.

Mr. Fagergren said issues in other states have come to light. There was a perceived question as to whether real estate agents need to be an appraiser to do a BPO. To clarify that, a couple of years ago the Utah statute was changed to allow real estate agents to do a CMA or BPO without being an appraiser. New Jersey Governor Chris Christie recently vetoed, for the second time, legislation that would have allowed real estate licensees in New Jersey to generate Broker Price Opinions without violating the state's appraiser licensing laws. Governor Christie stated the opinion narrowly interprets an existing statutory exemption. New Jersey law is interpreted to only allow real estate brokers engaged in a transactional relationship to provide counsel and advice on pricing, listing, and selling.

Vice Chair Booth said that historically two states have been tough on having attorneys involved in relationships and cooperation, and they are New Jersey and Florida.

Mr. Fagergren said that recently Australia tried to nationally license all real estate agents. After several years of study, regular impact analysis and public consultations, Australia's plan to establish a national licensing system for numerous occupations, including real estate agents, has been scrapped.

The Consumer Financial Protection Bureau ("CFPB") has launched an initial public outreach inquiry as to a first step towards its long-term goal of streamlining the U.S. real estate transaction closing process. To that end, the CFPB is asking stakeholders, including real estate brokers, agents, and other real estate transaction service providers, to help identify key closing pain points. The CFPB poses a series of questions about common problems that are experienced during closings, i.e., errors and changes that arise, closing documents, and what might be done to improve the process.

During the ARELLO meeting, federal flood insurance was discussed. According to the National Association of Realtors rate hikes for some homeowners have been as high as \$10,000 to \$30,000 per year because they are paying the full brunt of insurance. The NAR was hoping to have a formula for people so they didn't get hit with a huge rate increase. Federal subsidies ended a few months ago and there was a period where there were no subsidies happening. This is when homeowners started seeing large

increases in their premiums. They found that the private insurers were trying to cover this time when they could have been charging higher premiums.

## **COMMISSION AND INDUSTRY ISSUES**

### **Updates on Rules – Justin Barney**

Mr. Barney reported the Division had received one comment from the public regarding the proposed rule change regarding deleting standard form for the real estate purchase contract for residential construction. After speaking with the caller to answer his concerns, he said the caller seemed to now approve the rule amendment. The UAR has a form in place to cover this change.

A motion was made to make the rule effective on February 21, 2014. Vote: Chair Ashton, yes; Vice Chair Booth, yes; Commissioner Chapman, yes; Commissioner Little, yes. The motion passes.

### **Stipulation for Review:**

Skylar Smith

Mr. Smith appeared to answer any questions the Commission might have.

### **Discussion: Request from Julie Thompson:**

Ms. Thompson requested the terms of her Stipulation be amended. The Commission will review the matter in Executive Session.

The Commission has chosen to change the date of the May meeting because of other meetings scheduled during this same time. The meeting has been changed to Tuesday, May 20, 2014.

Director Stewart reported the Division will have a new Assistant Attorney General to represent the Division on Monday, February 24, 2014.

Commissioner Little said he has received many comments regarding the blind ad warning letters that have gone out from the Division. He has questions regarding office identifiers. Director Stewart said the Division will come back next month regarding a rule change or an article in the newsletter.

## **OPEN TO PUBLIC**

### **INFORMAL HEARING:**

10:00 Steven Bradshaw – De Novo Review

## **CLOSED TO PUBLIC**

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Ashton, yes; Vice Chair Booth, yes; Commissioner Chapman, yes; Commissioner Little, yes. The motion carries. An Executive Session was held from 10:49 a.m. to 11:25 a.m.

Results of Executive Session

Skylar Smith – Approved. Commissioner Chapman recused herself from this vote.

Kimberly Fry – Approved

Patrick Wiscombe – Approved

Julie Thompson – Ms. Thompson will be contacted by the Division by mail.

Steven Bradshaw – Mr. Bradshaw will be contacted by the Division by mail.

A motion was made to adjourn the meeting. Vote: Chair Ashton, yes; Vice Chair Booth, yes; Commissioner Chapman, yes; Commissioner Little, yes. The motion passes. The meeting adjourned at 11:26 a.m.