

**REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building  
Room 210  
9:00 a.m.  
September 16, 2015  
Telephonic Meeting

**MINUTES**

**DIVISION STAFF PRESENT:**

Jonathan Stewart, Division Director  
Mark Fagergren, Education and Licensing Director  
Jeffery Nielsen, Chief Investigator  
Justin Barney, Hearing Officer  
Elizabeth Harris, Assistant Attorney General  
Amber Nielsen, Acting Board Secretary  
Mark Schaerrer, Investigator  
Van Kagie, Investigator  
John Bickmore, Investigator  
Kadee Wright, Investigator  
Jennica Gruver, Real Estate Education Coordinator  
Jill Kelsch, Division Staff  
Jodie Carter, Division Staff  
Sarah Nicholson, Division Staff

**COMMISSION MEMBERS PRESENT:**

Russell K. Booth, Chair  
Lerron E. Little, Vice Chair  
Lori Chapman, Commissioner  
William O. Perry, IV, Commissioner

**GUESTS:**

Brian Swan	Trevor Everett
Dan Naylor	Peter Christensen
Tammy Lund	Susan Aguilar
Shane Norris	Kevin Swenson

Commissioner Calvin R. Musselman is excused from today's meeting.

The September 16, 2015 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Booth conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes - A motion was made and seconded to approve the written

minutes from the August 19, 2015 meeting of the Commission. Vote: Chair Booth, yes; Vice Chair Little, yes; Commission Chapman, yes; Commissioner Perry, yes. Motion was approved.

Public Comment Period –

Commissioner Booth presented a letter from Pierre Alley which is requesting a change for pre-licensing laws with regards to mortgage educators. Commissioner Booth would like to have this added to the agenda for next month.

There is no other public comment.

**DIVISION REPORTS**

**DIRECTOR'S REPORT – Jonathan Stewart**

Director Stewart discussed proposed legislative issue which updates the definition of Principal Broker to include the wording “is licensed and required to be licensed.” This change is to be added to the legislative changes presented to the Commission last month.

Director Stewart reported on the meeting with the Utah Association of Realtors (UAR) where there was a discussion of potential rule changes. The Division will work with the UAR to present those proposed rule changes to the Commission within the next couple of months.

Director Stewart presented information from the ARELLO Newsletter regarding two scam updates which are prevalent scams across the country.

The first scam is the Wiring Instruction Scam. In this scam, a broker's email is hacked and perpetrators send an official looking email with instructions to wire funds to a disguised (usually overseas) account. Mr. Nielsen recommends that prior to reacting to an internet notification, individuals are advised to communicate directly with the other party (either on the telephone or in person). Commissioner Booth asked that this information be included in the upcoming newsletter.

The second scam is regarding “We Buy Homes” signs and postcards. Companies will convince homeowners to sign over control of the home (rather than buy the home) then lease the property to a new tenant. The newsletter urged homeowner to beware of requests to transfer title of a property to a company based only on a promise to sell it.

**ENFORCEMENT REPORT – Jeffery Nielsen**

Mr. Nielsen reported in the month of August the Division received 31 complaints; opened 6 cases; closed 25 cases; leaving 248 open cases. There are 77 cases assigned to the AG's office.

Stipulation for Review

Jeanette M. Hales

Spring N. Bengtzen

Christopher T. Jones  
M. Keith Fitzgerald  
Christine M. Garrett  
Ryan G. Pettit

### **EDUCATION AND LICENSING REPORT – Mark Fagergren**

Mr. Fagergren discussed the Pierre Alley letter Chair Booth presented earlier in the meeting. Mr. Alley's concern was that a Mortgage Pre-License instructor should be presumed to be qualified to teach anything that dealt with mortgage topics in the Real Estate Curriculum. The adjunct instructor allowance, would allow a mortgage pre-license instructor to teach up to 20 percent of the Real Estate Curriculum. Mr. Fagergren feels this should satisfy the issue presented by Mr. Alley. Commissioner Booth would still like for this to be added to the agenda for October.

Mr. Fagergren announced the Instructor Development Workshop will be held October 14<sup>th</sup> and 15<sup>th</sup> in Park City. All instructors in the state were sent an email with an invitation. The commissioners are also encouraged to attend. Deborah Long will be speaking both days and instructing on how to prepare courses.

Mr. Fagergren reported both he and Mr. Barney attended the ARELLO Conference. Mr. Fagergren presented the following topics from the conference: the issue of independent contractor versus employee versus licensee status which is a big issue across the country; the issue of teams acting as miniature brokerages; some states require an individual who holds an auction to hold a real estate license as well as an auctioneer's license; including TRID as a core topic for real estate continuing education credit.

A motion was made to update the rules to include TRID courses as core courses. Vote: Chair Booth, yes; Vice Chair Little, yes; Commission Chapman, yes; Commissioner Perry, yes. Motion was approved.

Mr. Fagergren continued to present the following topics from the conference: all appraisal management companies are now federally required to be regulated as August 2018; and brokerage succession planning for when a broker passes away or has a serious illness; grandfathering CE for individuals who have completed a certain number of transactions in a licensing cycle. Mr. Fagergren will finish his presentation on the ARELLO Conference next month.

There are no education stipulations for review.

### **COMMISSION AND INDUSTRY ISSUES**

#### **Discussion of Proposed Rules – Justin Barney**

Mr. Barney reported a rule was approved for filing at the last meeting with the possibility of adding language. Mr. Barney stated the new language was added yesterday regarding Principal Broker licensing fees and procedure, specifically dealing with experience points. The proposed language will be sent to the commissioners by email. This new language will be included in the previously

approved filing unless the commissioners have objections to the new language.

Mr. Barney reported the ARELLO Conference with Mr. Fagergren was indeed worthwhile.

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 Booth, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Perry, yes. The motion carries.

### **CLOSED TO PUBLIC**

An Executive Session was held from 10:02 a.m. to 10:15 a.m.

### **OPEN TO PUBLIC**

#### **Results of Executive Session**

##### Results of Stipulation

Jeanette M. Hales – Approved with Concurrence from Division  
Spring N. Bengtzen – Approved with Concurrence from Division  
Christopher T. Jones – Approved with Concurrence from Division  
M. Keith Fitzgerald – Approved with Concurrence from Division  
Christine M. Garrett – Approved with Concurrence from Division  
Ryan G. Pettit – Approved with Concurrence from Division

Mr. Barney reported there was a case in North Carolina with the Dental Board. There was an adverse ruling because the board members were found to have had a vested competitive interest in the business within the state. It was found the board was passing regulations without any administrative oversight in violation of FTC laws. Mr. Stewart reported in this case there were no public members on that board. Mr. Stewart reported in Utah there are a couple proposed bills that seem to be looking at preventing this issue in the state of Utah; there is some concern that the Commission can technically pass rules without concurrence of the Division. Mr. Stewart expressed he doesn't believe there is a proposal dissolving the Commission.

A motion was made and seconded to adjourn the meeting. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Perry, yes. The motion carries. The meeting adjourned at 10:26 a.m.