

**REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building  
Room 210  
9:00 a.m.  
April 12, 2017

**MINUTES**

**DIVISION STAFF PRESENT:**

Jonathan Stewart, Division Director  
Mark Fagergren, Education and Licensing Director  
Kadee Wright, Chief Investigator  
Justin Barney, Hearing Officer  
Elizabeth Harris, Assistant Attorney General  
Eric Stott, Real Estate Analyst  
Amber Nielsen, Board Secretary  
Van Kagie, Investigator  
Mark Schaerrer, Investigator  
Sarah Nicholson, Investigator  
Chris Martindale, Investigator  
Teresa Larsen, Investigator  
Hillarie Murray, Division Staff  
Lacey Vawdrey, Division Staff  
Connie Mickles, Division Staff  
Faruk Halilovic, Division Staff

**COMMISSION MEMBERS PRESENT:**

Lerron Little, Chair  
Lori Chapman, Vice Chair\*  
Russell K. Booth, Commissioner  
Calvin R. Musselman, Commissioner  
William O. Perry, IV, Commissioner

\*Arrived at 9:07 a.m.

**GUESTS:**

Lance Harrison                      Shane Norris  
Peter Christensen                  Dan Naylor  
William Evans                         Jim Bradshaw

The April 12, 2017 meeting of the Utah Real Estate Commission began at 9:02 a.m. with Chair Little conducting. Vice Chair Chapman absent at the start of the meeting.

**PLANNING AND ADMINISTRATIVE MATTERS**

There was no Public Comment at this time.

Approval of Minutes – A motion was made and seconded to approve the minutes as written from the March 15, 2017 meeting of the Commission. Vote: Chair Little, yes; Commissioner Booth, yes; Commissioner Musselman, yes; Commissioner Perry, yes. The motion was approved.

## **DIVISION REPORTS**

### **DIRECTOR'S REPORT – Jonathan Stewart**

Director Stewart reported the American Land Title Association released a new article last week discussing the phishing scam Director Stewart reported on last year. Despite this being reported by multiple agencies, consumers are still being victimized by this scheme. The Division would like to send out a media alert and would like to be able to show the public a victim of this scheme in Utah to be interviewed as part of this alert. Commissioner Booth hopes that when this alert goes out that the other real estate organizations and related division can present a united front on this issue. Shane Norris stated he knows of two instances where a phishing email was sent, but the individuals caught the issue in time and did not lose money. Director Stewart asked that Mr. Norris contact those individuals to see if they would be willing to be interviewed.

Director Stewart reported on the statutory change which changed the owner exemption from saying an individual as an owner or lessor was exempt. Director Stewart reported that that feeling in the industry at this point was that the rule applied to a person, which would include entities. Director Stewart reported the statutory change, which is effective on May 8, 2017, reflects that understanding and changes "individual" to "person." Director Stewart stated the Commission may want to limit the scope of an entity in the owner exemption through rule. This is not on the agenda today but Director Stewart believes in the coming months the Commission may want to discuss and consider whether to refine that language or not since the language is very broad. The Commission had a lengthy discussion on the history of the use of this exemption and the various ways an entity's exemption qualification might be defined or refined. Ms. Harris stated she would get information on what other states are doing with the entity exemption and provide that information to the Commission.

Director Stewart reported Senator Margaret Dayton reached out to the Division during the legislative session. She had a constituent who was concerned about property management exemptions and family members managing properties. Director Stewart asked that the Commission consider making some changes to the property management rules to allow a family member to manage a property or something to that general effect.

### **ENFORCEMENT REPORT – Kadee Wright**

Ms. Wright reported in the month of March the Division received 35 complaints;

opened 64 cases; closed 23 cases; leaving 323 open cases. There are 58 cases assigned to the AG's office.

Stipulations for Review

Colleen Hunsaker  
V. Blaine Turner  
Lucas J. Ballard  
Juli L. Facer  
Hillary Davis

**COMMISSION AND INDUSTRY ISSUES**

Due to the time constraints Mr. Fagergren postponed his report until later in the meeting. Chair Little turned the time over to Mr. Barney to discuss changes to the REPC which was presented to the Division after a year and a half process.

Commissioner Musselman briefly interjected regarding an addendum to the REPC which was being presented as part of the discussion on earnest money deposits; Commissioner Musselman asked that the Commission put that particular addendum aside until a later date. Commissioner Musselman clarified that this addendum would be proposed in addition to possible rule changes in the title rules and the real estate rules.

Mr. Barney continued discussing the proposed changes to the REPC. He stated he was merely an intermediary in this process. He stated many people were involved in the long process as part of the committee. Mr. Barney presented the changes to the REPC to the Commission. Director Stewart outlined the process for approval and adoption of a State Approved Form. Chair Little stated the Commission might not have enough time to discuss and be informed enough to make a vote today. The Commission, Peter Christensen, and Shane Norris discussed the REPC changes and outlined the changes which are being proposed. This issue will be discussed at the meeting next month. The Commission asked that the meeting next month be scheduled to allow ample time for discussion of this matter.

**EDUCATION AND LICENSING REPORT – Mark Fagergren**

Mr. Fagergren stated he was going to report on a new system for the test centers reporting to schools. Schools will have to metrics to evaluate how their school is performing on each section of the outline. He will provide this information in more detail next month.

**HEARING OFFICER REPORT – Justin Barney**

Mr. Barney stated everything he had to discuss has been covered in the course of the meeting.

A brief recess was held from 10:08 a.m. to 10:14 a.m.

The meeting resumed at 10:14 a.m. for the Informal Hearing.

**INFORMAL HEARING:**

10:14 a.m. William Evans – Respondent  
Jim Bradshaw – Counsel for Respondent

Mr. Evans' hearing concluded at 11:13 a.m.

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 Little, yes; Vice Chair Chapman, yes; Commissioner Booth, yes; Commissioner Musselman, yes; Commissioner Perry, yes. The motion was approved.

**CLOSED TO PUBLIC**

An Executive Session was held from 11:14 a.m. to 11:38 a.m.

**OPEN TO PUBLIC**

**Results of Executive Session**

Results of Stipulations

Colleen Hunsaker – Approved with Division Concurrence  
V. Blaine Turner – Approved with Division Concurrence  
Lucas J. Ballard – Approved with Division Concurrence  
Juli L. Facer – Approved with Division Concurrence  
Hillary Davis – Approved with Division Concurrence

Mr. Evans will be notified of the Commission's decision.

Mr. Barney reported the pending rule amendment has received one comment in favor of the changes. He will provide that comment to the Commission at the meeting next month.

Commissioner Musselman asked that Mr. Barney email the changes to the REPC addendum for the earnest money deposit addendum. The Commission also asked that Mr. Barney make sure that the other changes to the proposed REPC be updated prior to the next meeting.

A motion was made and seconded to adjourn the meeting. Vote: Chair Little, yes; Vice Chair Chapman, yes; Commissioner Booth, yes; Commissioner Musselman, yes; Commissioner Perry, yes. The motion was approved. The meeting adjourned at 11:43 a.m.