

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 205
8:30 a.m.
April 21, 2004

MINUTES

STAFF MEMBERS PRESENT:

Dexter Bell, Division Director
Mark Fagergren, Licensing and Education Director
Jon R. Brown, Chief Investigator
Dee Johnson, Investigator
Shelley Wismer, Assistant Attorney General
Renda Christensen, Secretary

COMMISSION MEMBERS PRESENT:

Danny M. Holt, Chair
Gage Froerer, Vice Chair
Dorothy M. Burnham, Commission Member
Maralee Jensen, Commission Member

GUESTS:

Kevin Swenson
Paul Naylor

The April 21, 2004 meeting of the Utah Real Estate Commission began at 8:38 a.m. with Chair Danny Holt conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

It was noted that there needed to be a distinction in names on page 2 to include Dee Johnson's name to clarify the sentence. On page 3, the number of CE hours needs to be corrected to 24 hours. A motion was made by Ms. Jensen to approve the minutes with these corrections as written. The motion was seconded by Mr. Froerer and was carried unanimously.

DIVISION REPORTS

INVESTIGATIONS REPORT - Jon Brown, Chief Investigator

Mr. Brown reported that the Division had received 37 written complaints, 14 were opened for investigation. There were no cases closed during the month resulting in a current case total of 213. Mr. Brown mentioned that the Division is down two investigators, and was just notified that another investigator, Mr. Smalley, will be out for most of the summer for medical reasons. He told the Commission that there have been some issues on the rule about brokers attending closings, and that the rule may

need some attention. Ms. Wismer stated that it could be rewritten to say if the broker has agreed as part of his agency agreement to attend the closing, then the broker must attend. There have been some problems with discount brokers not giving service to their clients.

DIRECTOR'S REPORT – Dexter Bell

Director Bell told the Commission that the complaints are up and the number of investigators are down, but the problem should be reduced on July 1st when the state begins its new fiscal year. He mentioned that we are starting to interview for the positions. Director Bell reported that he spoke at the Utah Mortgage Lenders Association meeting yesterday about the mortgage lenders regulatory amendments bill that has just been passed, SB-178. He said that most states regulate their mortgage lenders. They don't license them individually, they regulate the entities through their bank regulators. There have been problems with this because regulators are having a hard time getting to the problem individuals. Many states are now starting to license the individuals through the bank regulators.

Director Bell mentioned that approximately 12-15% of all of the appraisers have been disciplined, and consequently the complaints have been down. He is hoping that the same will happen for the mortgage industry over time.

EDUCATION/LICENSING REPORT – Mark Fagergren, Director

Mr. Fagergren started by thanking Mr. Swenson and Mr. Naylor for attending the Commission meetings. He believes that it is beneficial to the industry to have them attend to learn about issues or new rules, and to help spread their knowledge.

Dave Johnson's CE course tape about the new REPC was delayed in being duplicated but should be available to the schools before the end of the month. There have been many course renewals for CE classes and an increasing number of new courses.

The Instructor Development Workshop is scheduled for October 8-9 this year and Mr. Fagergren will be reconfirming with the presenter, Mark Barker, to make sure that he is available on that weekend.

On-line renewal for existing licensees should be available by the fall. This will mean giving up some control on verifying CE. Ms. Burnham asked if the licensee will be made to enter the course number to verify. Director Bell said there have been meetings held with the IT people and we will not be able to enter the information on individual classes. There will be a button that the licensee will click on to verify that they have taken the required CE hours, which will serve as an affirmation. The Division will then audit a fair number of applications to make sure that the hours have actually been taken. Mr. Froerer asked when the on-line process would go into effect, and Director Bell said that the earliest would be July, and possibly into September or October.

The list of Lesser Criminal Convictions this month is 22, which has increased greatly. It seems that applicants are being more forthright in their answers than they have been in the past.

OTHER BUSINESS

Chair Holt brought up the next scheduled topic of the Proposed Rule Change: extending the terms of instructors and course certification to two years. Director Bell said that ~~currently instructors are licensed for one year, and pre-licensing instructors are licensed for two years.~~ Mr. Fagergren mentioned that schools and CE courses are one year. The Division would like to make all the time frames consistent. Chair Holt and Ms. Burnham brought up the issues that the course material must be kept current and that there must a fail-safe program in place if there are complaints on an instructor. Mr. Fagergren said that if the course material is going to be changed from the original outline filed with the Division, then they must notify us of that change before it takes place.

Deleted:

Chair Holt asked for comments either pro or con on the change, and both Mr. Naylor and Mr. Swenson said that they approve of the change to two years.

Ms. Wismer said that the pending rule change on deleting the Survey Addendum from the list of approved forms has passed the public comment period. There were no comments from the public, so the rule change can now be made effective. A motion was made by Ms. Jensen to allow the Division to make the rule change effective. Mr. Froerer seconded the motion, and it passed unanimously.

Ms. Wismer mentioned that the stipulation presented before the Commission today was unique in that there are three names on it instead of one. She said that it applied to a broker and two sales agents that all wanted to negotiate a settlement, and the best way was to include all three names. Mr. Brown stated that it will close three cases incidentally if it is approved.

INFORMAL HEARINGS

- 9:38 David McCulloch – Application for License
- 10:22 Jeffrey E. Auldridge – Application for License
Evelyn Bornstein, Mother
- 11:09 Lori K. Muscolino – Application for License
- 11:46 Brett J. Adams – Application for License
- 12:30 David H. Smith – Application for Renewal
- 1:00 Clint D. Knapp – Application for Renewal

A motion was made to break for Executive Session at 1:40, seconded, and passed unanimously. The Commission took a working lunch during this break. The meeting continued at 2:47.

EXECUTIVE SESSION

Results of Executive Session

David McCulloch – License granted, but is suspended until fines are paid and probation is completed. Broker notification required.

Jeffrey E. Auldridge – License granted on probation, broker notification required.

Lori K. Muscolino – License granted, but is suspended until she attends a Trust Account seminar.

Brett J. Adams – License granted on probation, broker notification required.

David H. Smith – License granted.

Clint D. Knapp – License granted on probation, broker notification required.

The Stipulation on Roger B. Zundel, Kendell Boyle and Rebecca Boyle was approved.

Lesser Criminal Convictions

Darrell E. Beitelspacher – License approved

Jolene W. Brooks – License approved

Alix Brosig – License approved

Claude R. Burt – Scheduled for hearing

Fred Diana – License approved

Mike Franks – License approved

Matthew S. Good – License approved

Catharine Hahn – License approved

Matthew C. Harrison – License approved

Brandon Jaenish – License approved

Tara Joyner – License approved

Ron A. Nelson – License approved

Michelle Nunez – License approved

Darin Oar – License approved

Jessica M. Kinslow – License approved

Weston D. Parramore – Scheduled for hearing

Kimberly Reese – License approved

Sandra J. Sisam – License approved

Tad R. Starr – License approved

Tiffany N. Thomas – License approved

Chuck B. Torres – License approved

Richard Youngblood – Scheduled for hearing

There being no further business, a motion was made, seconded, and passed unanimously to adjourn. The meeting adjourned at 2:55 p.m.