

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor Hearing Room
9:00 a.m.
December 19, 2007

MINUTES

STAFF MEMBERS PRESENT:

Derek B. Miller, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education/Licensing Director
Laurie Noda, Assistant Attorney General
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator

COMMISSION MEMBERS PRESENT:

H. Blaine Walker, Chair
Doyle "Sam" Sampson, Jr., Vice Chair
Bonnie Peretti, Commissioner
Gary Hancock, Commissioner
Kay Ashton, Commissioner

GUESTS

Jack Marinello	Curtis Bullock
Kevin Swenson	Lance Miller
Linda Leavitt	Michael Welker
Paul Naylor	Arnold Stringham
Shelley Wismer	

The December 19, 2007 meeting of the Utah Real Estate Commission began at 9:02 a.m. with Chair Walker conducting.

Approval of Minutes

The minutes for October 17, 2007 were approved as written.
The minutes for December 3, 2007 were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT – Derek B. Miller

Director Miller reported on the status of three administrative rules that are in process. All three have been turned over to the Department for their review and the Division expects by the end of the month all will be posted for public comment. The rules are R162-12, dealing with the Utah Housing Opportunity Account; R162-8.4.1.15, is the education disclosure rule; and, R162-2.2.9 is a modification to the rule which precludes someone from applying for a license if they have had a felony or a certain kind of misdemeanor. The rule will include preventing someone from renewing a license if

during the term of their license they had a finding from any government agency, including the courts, of fraud as it relates specifically to the activity dealing with their real estate license.

Recently, criminal indictments have been issued by the U.S. Attorney's Office to six individuals, all of which are alleged to be involved in a mortgage fraud scheme involving artificially inflated properties and illegal flipping. Director Miller mentioned this in particular because he believes it's a good thing we are continuing to get other government agencies involved in both investigating and prosecuting mortgage fraud. He also wanted to acknowledge the fact that Dee Johnson and his enforcement team are part of the Mortgage Fraud Task Force.

INVESTIGATIONS REPORT – Dee Johnson

Mr. Johnson reported in the month of November the Division received 52 complaints, 50 complaints were screened, 8 cases were opened, 17 cases were closed, leaving 114 cases opened. The Division's goal is to have 20-30 cases per investigator, and the Division has three full-time, very dedicated, real estate investigators.

The Mortgage Fraud Task Force has been indicating for some time they will have the indictments coming down on this and other cases. We were pleased to see them issue the indictments on the Provo River Bottom properties and six individuals that were involved. The Task Force is also hoping to announce one more they have been working on before the year is out. The Division has been providing input to the Task Force even though they are not capable of giving us back information. Mortgage fraud has been a big deal in our state and now to see multi-agencies involved is exciting for the Division.

Mortgageblog.com is a national entity that was started an attorney who had a great deal of interest in tracking mortgage fraud. She has now become the controlling point for national news coming out on mortgage fraud. They do publish some license material, but in general there has been so much across the nation, that now it is just criminal convictions and indictments. You can go to the site at anytime and see what the most recent indictments and convictions.

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported the Instructor Development Workshop was very well received. The comments from the participants reflected this was a quality meeting. The following day the workshop broke into eight sessions for discussion. Commissioner Ashton spoke about what commissions do, along with Commissioner Maralee Jensen from the Mortgage Commission. Director Miller gave an excellent presentation on the state of the Division and where we are going. Dee Johnson gave a lecture about fraud and what is going on with new rules.

The Division is still actively involved with on-line course evaluation. Schools have been submitting incremental portions of on-line programs.

Mr. Fagergren said there are rules now in place which say that CE providers have to submit a course in advance to be approved before they can teach the course. This Commission has sanctioned people if they have taught a course that had not been approved for CE. There is now a situation that involves a number of presenters and providers who are advertising a course before they have ever submitted the course application for approval to the Division. These people are advertising the course has either been approved by the Division, or that CE is pending with the Division. At the last minute the Division gets the course application a few days before the course is to be taught, and it makes us appear to be insensitive to licensees if we disapprove the course. The Division would like the Commission's consideration about modifying the rule that says not only do you have to have the course approved to teach it, but if they are promoting it as having CE, it must have approval before it can be marketed. This puts the licensee in a bad way, and the provider is placing the Division in "a bad light."

A motion was made and approved to make it mandatory that a course must be approved before any advertising or teaching can take place. The Division will have a representative from the Attorney General's Office to prepare a proposed rule.

Mr. Fagergren brought up the topic of pre-license education for sales agents. Many providers have gone to expense and time to get on-line programs for sales agents. A follow-up to this is to allow on-line education for brokers. However, many of the schools he has spoken with have some recommended modifications to the broker curriculum. Mr. Fagergren suggested having a re-evaluation of the broker curriculum to make sure that we are teaching what our industry, educators, and the Division all feel like is the appropriate curriculum. There is also the question of whether sales agents can attend broker courses. Mr. Fagergren suggested establishing an education committee to look at the broker curriculum, and also who can attend the broker classes.

After discussion, a motion was made and approved to establish an education task force of six people within the next 90 days. The Commission will make suggestions to Mr. Fagergren as to who will be on the task force.

Mr. Fagergren said the RELMS System now has all licensee information available in the Excel spreadsheet format. He also mentioned that Promissor has been bought out by Pearson Vue and their home page has now changed to reflect that change. Chair Walker said we are either ahead of or staying right up at the top with other states. He is pleased with the technological advances made by the Division.

Mr. Johnson announced that Shelley Wismer has retired last Friday after 24 years of service with the Division and Attorney General's Office. The Commission thanked Ms. Wismer for her many years of service.

LICENSE HEARINGS: CLOSED TO PUBLIC

- 10:10 David S. Kelly – Application for License
- 10:55 Irvin Nelson – Application for License
Colleen Nelson, Wife
Bill Fullmer, Step-son
Carl Hart, Friend
Clifford Skousen, Former employer
- 12:00 Julie Jones – Application for License
- 12:30 Angela Peterson – Application for License
Jeremy Johnson, Co-worker
Lenny Miller, Salt Lake County Sheriff, Fiancée
Edwin Swanke, Step-Father
Lynn Muirbrook, Principal Broker – Exit Realty Central
Paula Swanke, Mother

Break from 1:10 p.m. to 1:35 p.m.

- 1:35 John P. Maxim – Application for License
- 1:55 Adam Walburger – Review of Decision on License Application
Mr. Walburger did not appear for his hearing.
- 2:00 Arles K. Hansen – Application for License
Thomas Howard, Attorney
Cal Harkness, Mortgage Loan Officer, Citywide Home Loans
Michael Ahlin, Impac Development
Craig Ostler, Friend

A motion was made to go into an Executive Session from 3:12 p.m. to 4:00 p.m..

Results of Executive Session

Stipulation:

Steve Pehrson - Approved

A motion was made and accepted to adjourn the meeting at 4:05 p.m.