

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

October 15, 2008

### **MINUTES**

#### STAFF MEMBERS PRESENT:

Mark B. Steinagel, Division Director  
Dee Johnson, Enforcement Director  
Mark Fagergren, Education and Licensing Director  
Traci Gundersen, Assistant Attorney General  
Renda Christensen, Board Secretary  
Tiffeni Wall, Real Estate Education Coordinator  
Elizabeth Beazley, Investigator

#### COMMISSION MEMBERS PRESENT:

Gary Hancock, Vice Chair  
H. Blaine Walker, Commissioner  
Kay Ashton, Commissioner  
Stefanie Tugaw-Madsen

#### GUESTS

Kevin Swenson  
Jack Marinello  
Lance Miller  
Paul Naylor

The October 15, 2008 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Vice Chair Hancock conducting.

Chair Sam Sampson was absent from this meeting because he is attending a conference in Jacksonville, Florida.

### **PLANNING AND ADMINISTRATIVE MATTERS**

#### Approval of Minutes

The Minutes from the August 20, 2008 meeting along with the Minutes from this September 17, 2008 meeting were reviewed. There was a motion to approve the August 20, 2008 Minutes as written which passed unanimously.

The Minutes from September 17, 2008 were found to have one correction. On page 1, under the Planning and Administrative Matters, the word "voted" needs to be corrected to "awarded" in regard to Chair Sampson being awarded the Realtor of the Year. With

this correction, there was a motion to approve the corrected Minutes. The motion passed unanimously.

## **DIVISION REPORTS**

### DIRECTOR'S REPORT – Mark B. Steinagel

Director Steinagel said the letter he wrote to the Title industry brought a phone call from one brokerage stating they were changing their practices to be in compliance.

In the meeting last month the issue of licensees being expired over six months and starting over was discussed. Director Steinagel discussed the issue with Representative Froerer and the decision was not to have someone start over after six months. The licensee would be in a six-to-twelve month phase requiring twelve extra CE hours and the reinstatement fee. This issue will cover both real estate and mortgage licensing. The bill will also include having background checks for brokers making application, and changes to the increasing the amount of what can be collected on the Recovery Fund. The Fund also requires that the person filing must have a civil judgment on someone. It is currently not allowed to have a criminal restitution judgment to file a claim against the Recovery Fund.

Director Steinagel handed out a draft to R162-6-1.2.12.1 covering inducements. This draft includes new language clarifying who pays whom, and not requiring notice be given by one principal broker according to a specific method or form preferred by another principal broker. A motion was made to advance the draft into the rulemaking process. The motion passed unanimously.

The second draft rule is R162-5-4 on property management by a separate property management company. Since property management companies are under the same rules as a real estate company, section 5.2.1 has been proposed to be delete in the proposed draft. The net effect of this would allow property management firms to perform real estate transactions. The issue of a dual broker license was discussed, and also providing brokers an opportunity to run two full-service brokerages under one broker if this change is made. It was decided to table this draft rule for further review.

Director Steinagel said that he will invite the Apartment Association to the meeting next month for further discussion.

### ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson said the Division is seeing a series of problems because of the tightening up of what is happening in the marketplace. He let the Commission know there will be an increase in the number of hearings coming before Commission. Part of this reason is because licensees are not willing to cooperate or stipulate with the Division.

The statistics for September show the Division received 44 complaints; screened 32 complaints; opened 9 cases; closed 12 cases; and, this leaves 152 open cases.

Mr. Johnson said the respondent in the respective Stipulation was given the opportunity to come before the Commission today and has decided not to attend.

Review of Stipulations

David A. Wharton

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported that the Instructor Development Workshop held in September was successful. The Division's newsletter should be sent out in the near future.

The statistics show 598 agents, or 4% of licensed agents, have dropped since the beginning of the year. In comparison, the mortgage industry had a 12% reduction during this same time period.

The Division has received a request from Oklahoma for reciprocity, but it is not complete reciprocity. The Division's policy is that reciprocity means if someone comes to our state we accept their license by paying our fees, and they accept our license by paying their fees. In this request, Oklahoma wants to retain the right to examine our people on Oklahoma law, which isn't really reciprocity. The Division currently issues education waivers from states across the country, regardless of whether we have a reciprocal agreement. Mr. Fagergren said if someone applied from Oklahoma the Division would look at their education and waive a portion depending upon hours they completed and would require them to take Utah law. The Division currently has reciprocity with Colorado, Georgia, Idaho, Montana, Wyoming, and Alberta, Canada.

COMMISSION AND INDUSTRY ISSUES – Gary Hancock

Vice Chair Hancock thanked Director Steinagel for the letter sent out to the Title industry. He said it was clear and well stated.

A Motion was made at 9:58 a.m. to close the meeting for licensing hearings. At this time there was also a motion to go into Executive Session from 10:15 a.m. until 10:40 a.m. Both of these Motions were passed unanimously.

**LICENSE HEARINGS: CLOSED TO PUBLIC**

10:40 Michael Dawson – Disciplinary Hearing, Case No. RE21076  
Mr. Dawson did not appear, nor did he contact the Division.  
Division Witnesses: Dave Mecham, Chief Investigator, and  
Ivan Bowen

11:50 Michael Dawson – Disciplinary Hearing, Case No. RE31157  
Mr. Dawson did not appear, nor did he contact the Division.  
Division Witnesses: Pam Hanlon  
Charlene Nilsen  
Ron J. Wilstein  
Dave Mecham, Chief Investigator

A Motion was made to go into Executive Session from 1:19 p.m. to 1:50 p.m. The

Motion was passed unanimously.

LICENSE HEARINGS (Continued):

1:51 Lisa Harbaugh – Disciplinary Hearing  
Ms. Harbaugh did not appear, nor did she contact the Division.  
Division Witnesses: Tara Dunn  
Christopher Dunn  
Dave Mecham, Chief Investigator

3:13 James Harbaugh – Disciplinary Hearing  
Mr. Harbaugh did not appear, nor did he contact the Division.  
Division Witness: Tara Dunn  
Christopher Dunn  
Dave Mecham, Chief Investigator

A Motion was made to go into Executive Session from 4:05 p.m. to 4:50 p.m. The Motion was passed unanimously.

**OPEN TO PUBLIC**

RESULTS OF EXECUTIVE SESSION

Results of Stipulations:

David A. Wharton - Approved

A Motion was made and accepted to adjourn the meeting at 4:50 p.m. The Motion was passed unanimously.