

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

May 8, 2013

### **MINUTES**

#### DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director  
Mark Fagergren, Education and Licensing Director  
Jeffery Nielsen, Chief Investigator  
Ben Jensen, Hearing Officer  
Judith Jensen, Assistant Attorney General  
Renda Christensen, Board Secretary  
Jill Childs, Division Staff

#### COMMISSION MEMBERS PRESENT:

H. Thayne Houston, Chair  
Kay R. Ashton, Vice Chair  
Gary R. Hancock, Commissioner  
Lerron E. Little, Commissioner  
Russell K. Booth, Commissioner

#### GUESTS:

Tammy Lund	Ron Duyker
Kevin Swenson	Shane Norris
Peter Christenson	

The May 8, 2013 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Houston conducting. Chair Houston welcomed Ms. Christensen back from her leave.

### **PLANNING AND ADMINISTRATIVE MATTERS**

#### Approval of Minutes

A motion was made to approve the minutes from the April 17, 2013 meeting as amended. Vote: Chair Houston, yes; Vice Chair Ashton, yes; Commissioner Hancock, yes; Commissioner Little, yes; Commissioner Booth, yes. The motion has passed.

### **DIVISION REPORTS**

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

Director Stewart said the Division will be hiring a new Real Estate investigator. Carlos Alamilla is no longer with the Division.

On May 6, 2013 the Division received word from Utah Interactive that there have been several updates to the RELMS system that will benefit licensees. Director Stewart said these changes would normally have cost the Division approximately \$50,000, but the Division was not charged any fee. One update will create savings by having the licensees print their own licenses.

The changes include:

- Licensees will now be able to print off copies of their licenses
- Print off a history of CE courses the licensee has taken in the current year forward
- Changes in the text to change affiliation with a broker, and if the broker has confirmed the change within ten days
- The questions on the qualifying questionnaire have been updated
- A reduced delay in the time to wait on RELMS from approximately five minutes to 8 seconds

Additional changes will be happening before the end of the year.

#### **ENFORCEMENT REPORT – Jeffery Nielsen**

Mr. Nielsen said there are no statistics today. The Enforcement Secretary, Allyn Stutsman, has been out on medical leave. When she returns in a few weeks, the Division will be able to update the reports.

Mr. Nielsen mentioned the Division will be hiring an investigator. The job has been posted on the state jobs website.

#### **LICENSING/EDUCATION REPORT - Mark Fagergren**

Mr. Fagergren said the Division is in the middle of their yearly Caravan. The responses from those in attendance were very positive feedback.

Part of Mr. Fagergren's report on the Caravans will be to inform those in attendance of the updates that Director Stewart described. Also, a discussion of the proposed rules that will, hopefully, be in effect. Existing rules for supervisory requirements for brokerages and property management brokerages will be discussed. Many licensees are not aware of these differences, such as in a property management brokerage they can't sell real estate. The proposed rules will do away with property management brokerages not being able to sell real estate.

The new rules modify the duties of a personal assistant. The difference between real estate personal assistant duties versus property management duties will be discussed. Now, in the same office, people can be inter-mixed with different duties. If they are in property management, they can fill out a pre-printed form, and later that day, they can work as a personal assistant for real estate and they can't show a property or quote a price. This discussion will be aimed toward brokers to ensure their licensed and unlicensed staff is in compliance with the new rules.

These changes will be explained in the Division's newsletter, by real estate educators, and industry representatives.

Commissioner Hancock mentioned to Mr. Fagergren that he has had several comments about the content of the Caravan reports. One said it was the best Caravan he had ever attended.

The statistics show the numbers of licensees have decreased 31 active sales agents since April, but increased by 261 active sales agents in year-to-date. The trend seems to be positive since the beginning of the year. Inactive agents have decreased 268 licensees who have failed to renew. That led to 357 fewer inactive licensees in year-to-date numbers.

The Division has hired a replacement for our Receptionist, Jennica Robison. The new person will begin on May 20, 2013. The job posting for Tiffeni Wall's position as Real Estate Education Coordinator has been posted on the state's job site.

Chair Houston commented that he is in the process of renewing his Nevada license. Nevada now requires that one-half of the CE now has to be taken live, with the other half to be taken on-line. This change is effective July 2013. Nevada also will not allow any elective courses that have been previously taken in your last renewal to be counted on this renewal. Chair Houston was now in the process of researching what courses he had previously taken.

## **COMMISSION AND INDUSTRY ISSUES**

### **Discussion of Proposed Rules – Ben Jensen**

Mr. Jensen said there are two rules issues and two stipulations to review today. First, the public comment period on the property management rules ended on May 1, 2013. There were no comments received. With a motion and vote today, we can make them effective May 8, 2013. A motion was made to make the rules effective on May 1, 2013. Vote: Chair Houston, yes; Vice Chair Ashton, yes; Commissioner Hancock, yes; Commissioner Little, yes; Commissioner Booth, yes. The motion passes.

The second rule update was the education rules. Those have been filed, and the public comment period will begin on May 15, 2013. The comment period will run until June 14, 2013, with the first possible effective date on June 21, 2013.

### **Stipulations for Review**

Michael Fausett  
Beau Wiley

Mr. Jensen said Senate Bill 77 and the changes in public meetings will take effect on May 14, 2013.

The Public Notice Website is available through the Division's website by going to the

Division's website ([www.realestate.utah.gov](http://www.realestate.utah.gov)), and click on "Public Meetings."

Mr. Jensen gave a brief summary as to what the changes in posting requirements will be as of May 14, 2013. Draft minutes will be made available to the public, recordings of the public meetings and hearings, and approved minutes are materials that will be made publically available during the meeting will all be posted now.

Chair Houston brought up two items for discussion. The first issue is short sale offers. Does the agent have the right, when writing the offer, to demand that their offer is presented to the seller? Mr. Fagergren said in the Division rules this would fall under the fiduciary duty to the client. Discussion was held on this issue.

Chair Houston's second issue was if the Division had an audit check list for property management to know if you are in compliance. Mr. Nielsen said he is not aware of any list covering property management.

#### **CLOSED TO PUBLIC**

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 Houston, yes; Vice Chair Ashton, yes; Commissioner Hancock, yes; Commissioner Little, yes; Commissioner Booth, yes. The motion has passed. An Executive Session was held from 10:00 a.m. to 10:20 a.m.

#### **OPEN TO PUBLIC**

##### Results of Stipulations

Michael Fausett - Approved

Beau Wiley - Approved

##### INFORMAL HEARING:

10:33 Douglas Stewart Griffith

11:15 San V. Lejon

#### **CLOSED TO PUBLIC**

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**OPEN TO PUBLIC**

A motion was made to adjourn the meeting. Vote: Chair Houston, yes; Vice Chair Ashton, yes; Commissioner Hancock, yes; Commissioner Little, yes; Commissioner Booth, yes. The meeting adjourned at 12:17 p.m.