

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 250

9:00 a.m.

November 7, 2023

Zoom

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Licensing & Education Director
Justin Barney, Hearing Officer
Kadee Wright, Chief Investigator
Maelynn Valentine, Board Secretary
Laurel North, Investigator
Chris Martindale, Investigator
Van Kagie, Investigator
Sandra Bargas, Education Coordinator
Anna Seegmiller, Investigator
Karen Duncan, Investigator
Michael Genco, Licensing Specialist
Jenae Luthi, Investigator
Jenni Myers, Investigator
Steven Green, Assistant Attorney General
Matt Hastings, Division Analyst
Adam Martin, Investigator
Connie Mickels, Investigator

COMMISSION MEMBERS PRESENT:

Marie McClelland, Chair
Andrea Wilson, Vice-Chair
Randy Smith, Commissioner
Jim Bringhurst, Commissioner
Rick Southwick, Commissioner

The October 18, 2023, meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair McClelland conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to approve the minutes of the October 18, 2023, meeting of the Commission as written. Vote:

Chair McClelland, yes; Vice Chair Wilson, yes; Commissioner Bringhurst, yes; The motion was approved.

Public Comment

Michael Hebert addressed the Commission regarding increasing the continuing education hours. Mr. Hebert believes that increasing continuing education hours will increase professionalism and protect the public, it is his understanding that this is a legislative issue and would need to be addressed during the legislative session. Director Stewart stated that if the industry is interested in increasing continuing education hours, then the first step should be speaking to legislators.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart stated that Will Cooper brought up the seller finance addendum and that it needs updating. Mr. Copper mentioned that because of high interest rates he is seeing that sellers are wrapping the mortgage into the transaction and that this could potentially cause issues if a lender calls the loan due. Shane Norris stated that the "due on sale clause" is causing lenders to call notes due if notified that title has been transferred because they can get a higher interest rate. Mr. Norris stated that the form could be revised to not have that option available to alleviate the issue. Director Stewart suggested that the Commission form a committee to look at the form and discuss potential issues. Commissioner Wilson raised concerns and volunteered to sit on the committee along with Chair McClelland, Mr. Maudsley, and Mr. Norris. Director Stewart, Kadee Wright and Mr. Barney with the Division will also be on the committee and Director Stewart will reach out to Mr. Wagner to see if he would like to volunteer as well.

Director Stewart reported that the Commercial Transaction Committee has been formed and will be scheduling the first meeting in the near future, a report will be given at the December Commission meeting.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported that in the month of October the Division received 33 complaints; closed 39 cases; leaving 456 open cases. There are 51 cases pending with the AG's office and or the Division Analyst.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported on statistics. The Division saw a increase of 34 sales agents from last month, along with 13 principal brokers, and 2 associate brokers, that is a net increase of 49 licensees. There was a decline of 3 branch brokers and 136 inactive licensees from last month.

Mr. Fagergren reported on the Division's successful Instructor Development Workshop. Betsy Coyne gave an incredible technological presentation on ways to enhance virtual meetings. Some of the tools she presented on were Mentimeter. Pull Everywhere, Google Forms, Flippity, and Zoom. The Division received a lot of positive feedback on the presentation and presenter.

Mr. Fagergren informed the Commission that a list of Core Topics was distributed to the Commission prior to the meeting for their consideration. The Commission approved the Core Topics as written.

Mr. Fagergren continued the discussion from last month regarding Lead Based Paint Disclosures. Commissioner Bringhurst stated that it has been suggested to add the "Protect Your Family Against Lead Based Paint" pamphlet along with the disclosure. Commissioner Smith stated that the UAR forms committee is also discussing this issue and suggested holding off on any further discussion until they make any suggestions on this matter.

COMMISSION AND INDUSTRY ISSUES – Justin Barney

Mr. Barney stated that there is currently no update on a proposed rule amendment at this time.

SANCTION HEARING- KIMBERLY BARBER 10:00 am

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair McClelland, yes; Vice-Chair Wilson, yes; Commissioner Bringhurst, yes; Commissioner Southwick, yes; Commissioner Smith, yes. The motion was approved.

OPEN TO PUBLIC

A motion was made and seconded on the following motion on the sanctions for violations found on the order for Motion of Summary Judgement for Kimberly Barber. For Cause of Action number one the Commission found two violations and imposed a \$5,000 fine for misrepresenting that earnest money was deposited in the N. Ogden case and a \$4,000 fine for advertising the Fairfield property for rent when it was not available. For Cause of Action

number two, incompetent to act as a sales agent, the Commission found one violation and issued a \$5,000 fine. For Cause of Action number three, the REPC did not reflect the true terms of the transaction, the Commission found one violation and issued a \$2,500 fine. For Cause of Action number four, failing to respond to a request from the Division, the Commission found one violation and issued a \$1,000 fine. For Cause of Action number five, advertising in a false or misleading manner, the Commission found one violation and issued a \$2,000 fine. For Cause of Action number six, advertising without the consent of the owner, the Commission found one violation and issued a \$5,000 fine. There are seven total violations for a civil penalty of \$24,500. The motion is approved with concurrence from the Division.

A motion was made and seconded to adjourn the meeting. Vote: Chair McClelland, yes; Vice-Chair Wilson, yes; Commissioner Smith, yes; Commissioner Southwick, yes; Commissioner Bringhurst, yes. The motion was approved.