



CANNON BUILDING  
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STATE OF DELAWARE  
DEPARTMENT OF STATE

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DIVISION OF PROFESSIONAL REGULATION

<b>PUBLIC MEETING MINUTES:</b>	<b>DELAWARE REAL ESTATE COMMISSION</b>
<b>MEETING DATE AND TIME:</b>	<b>Thursday, October 8, 2009 at 9:00 a.m.</b>
<b>PLACE:</b>	861 Silver Lake Boulevard, Dover, Delaware <b>Conference Room A</b> , second floor of the Cannon Building
<b>MINUTES APPROVED:</b>	November 12, 2009

### **MEMBERS PRESENT**

Ricky H. Allamong, Professional Member, Chairman  
Vincent M. White, Professional Member, Vice-Chairman  
Andrew Staton, Professional Member, Secretary  
James L. Givens, Professional Member  
Denise R. Stokes, Public Member  
Gilbert Emory, Public Member  
Christopher J. Whitfield, Professional Member  
Patricia O'Brien, Public Member

### **DIVISION STAFF/ DEPUTY ATTORNEY GENERAL**

Kay Warren, Deputy Director, Division of Professional Regulation  
Eileen Heeney, Deputy Attorney General  
Gayle Melvin, Administrative Specialist III

### **MEMBER ABSENT**

James C. Brannon, Jr., Public Member

### **ALSO PRESENT**

TracyLee Elmore  
Mike McGavisk  
Richard Marcus  
Audrey Brodie  
Paul Pruitt  
Sharon Morris  
Gary Bryde, Esquire  
Douglas Tisdell  
Vicki Tisdell

Mary Shorter  
Sandy Fader  
Barbara Gadbois, DAG  
Sam Nickerson  
Gary Bryde, Esquire  
Vera Seitz, Court Reporter

### **CALL TO ORDER**

Mr. Allamong called the meeting to order at 9:00 a.m.

### **REVIEW OF MINUTES**

A motion was made by Mr. Whitfield, seconded by Mr. Emory to approve the minutes of the meeting held on September 10, 2009. The motion passed unanimously.

Mr. White asked for a written explanation from the Division of Professional Regulation of the allowable expenses under the Guaranty Fund.

### **NEW BUSINESS**

#### **Applications for Licensure**

A motion was made by Mr. Givens, seconded by Ms. Stokes to ratify the following new salesperson applicants as presented:

Sheila Bell, Paramount GMAC Real Estate, Aston, PA  
Kristina Boyd, The Realty Retriever, Hockessin, DE  
Jill Jarrell, Keller Williams Realty, Wilmington, DE  
Mark Lally, Bay Coast Realty, Rehoboth Beach, DE  
Walter Lewis, Prudential Fox & Roach, Newark, DE  
Linda Raburn El, Bob Moore Realty Company, Dover, DE  
Leland Schoenbeck, Patterson Woods, Greenville, DE  
Matthew Weilheimer, The Kislak Co., Woodbridge, NJ  
Jennifer Ondik, Patterson Schwartz, Wilmington, DE  
Nancy Penrod, ERA Harrington Realty, Dover, DE  
Steven Marker, Long & Foster, Bear, DE  
Kim West, Prudential Fox & Roach, Greenville, DE  
Richard Kairer, Prudential Fox & Roach, Devon, PA

The motion passed unanimously.

The application of Christopher Harmer for a non-resident broker's license was reviewed. A motion was made by Mr. Staton, seconded by Mr. Whitfield to approve this application to be effective October 14, 2009, the date that Mr. Harmer will have held an active license for five years. The motion passed unanimously.

The application of Richard Soloff for a non-resident broker's license was reviewed. A motion was made by Mr. Staton, seconded by Mr. Whitfield to approve this application. The motion passed unanimously.

The application of Emma Payne for a non-resident broker's license was reviewed. A motion was made by Ms. O'Brien, seconded by Ms. Stokes to approve this application. The motion passed unanimously.

The application of Mark Gamba for a non-resident broker's license was reviewed. A motion was made by Mr. Staton, seconded by Ms. Stokes to approve this application. The motion passed unanimously.

The application of Frank Burdette for a resident broker's license was reviewed. A motion was made by Ms. Stokes, seconded by Mr. White to approve this application. The motion passed unanimously.

The application of Michael Noyes for a non-resident salesperson's license was reviewed. A motion was made by Mr. Whitfield, seconded by Mr. Emory to approve this application. The motion passed by majority vote. Mr. Givens voted against the motion.

#### New Offices

The application of Destination Realty, Inc. for a new office was reviewed. A motion was made by Ms. Stokes, seconded by Ms. O'Brien to approve this application. The motion passed unanimously.

The application of First Class Properties of DE, LLC for a new office was reviewed. A motion was made by Mr. Staton, seconded by Mr. Whitfield to approve this application subject to confirmation that the sign has been installed. The motion passed unanimously.

The application of Beachside Realty for a new office was reviewed. A motion was made by Mr. White, seconded by Mr. Staton to approve this application. The motion passed unanimously.

The application of Extraordinary Realtors & Associates for a new office was review. A motion was made by Mr. Whitfield, seconded by Ms. Stokes to approve this application. The motion passed unanimously.

#### Reinstatement of Licenses

The application of Joseph Connor for reinstatement of a resident salesperson's license was reviewed. A motion was made by Mr. Whitfield, seconded by Mr. Givens to propose to deny Mr. Connor's application because he had been convicted of forgery, a crime substantially related to the practice of real estate. The motion passed unanimously.

The application of Laurence Hirsh for reinstatement of a non-resident broker's license was reviewed. A motion was made by Ms. Stokes, seconded by Mr. Givens to approve Mr. Hirsh for reinstatement. The motion passed unanimously.

The application of Michael Hammond for reinstatement of a non-resident salesperson's license was reviewed. A motion was made by Mr. Staton, seconded by Ms. Stokes to approve Mr. Hammond for reinstatement. The motion passed unanimously.

## **HEARINGS**

### **9:15 a.m. – Case 02-10-08 Against Paul Pruitt and Case 02-11-08 Against Sharon Morris**

Mr. Allamong called the formal hearing to order at 9:22 a.m. This hearing was held to receive evidence in the matter of Case 02-10-08 against Paul Pruitt and Case 02-11-08 against Sharon Morris. Mr. Whitfield, contact person for these complaints, recused himself from the proceedings. Present for the hearing were Barbara Gadbois, Deputy Attorney General, Sam Nickerson, Paul Pruitt and Sharon Morris. Verbatim testimony was recorded by the court reporter.

Ms. Gadbois called Mr. Nickerson as her first witness. Mr. Nickerson was sworn in by the court reporter and answered questions from Ms. Gadbois and Commission members.

Ms. Gadbois called Ms. Morris as her next witness. Ms. Morris was sworn in by the court reporter, gave testimony and answered questions from Ms. Gadbois and Commission members.

Mr. Pruitt was sworn in by the court reporter, gave testimony and answered questions from Ms. Gadbois and Commission members.

The Commission took a recess from 10:30 a.m. to 10:40 a.m.

The Commission went off the record at 10:40 a.m. to hold deliberations. The Commission went back on the record at 10:56 a.m. A motion was made by Mr. Staton, seconded by Ms. Stokes that in Case 02-10-08 against Paul Pruitt, the Commission finds Mr. Pruitt guilty of violating 24 *Delaware Code* § 2912 (a) (1) in that he made substantial misrepresentations concerning the validity of the check given to the Hogan Firm in the amount of \$32,500; § 2912 (a) (5) in that he failed, within a reasonable time, to account for or to remit any moneys coming into his possession which belonged to others; § 2912 (a) (6) in that he was incompetent to act as a real estate broker in such manner as to safeguard the interest of the public; § 2912 (a) (12) in that he engaged in conduct that constituted improper, fraudulent or dishonest dealing; §2912 (a) (8) in that he violated Rule and Regulation 5.1 in that he failed to keep all moneys received as a broker in a separate escrow account until settlement; Rule and Regulation 5.3 in that he was not permitted to co-mingle money entrusted to him with his money or property; and Rule and Regulation 5.4 in that he failed to maintain in his office a complete record of all moneys received or escrowed on real estate transactions, including the sources of the money, the date of receipt, depository, and date of deposit and final disposition of the moneys and Mr. Pruitt's license will be revoked and he is ineligible to reapply until the \$25,000 plus interest has been paid. The motion passed unanimously. A motion was made by Mr. Staton, seconded by Ms. Stokes that in Case 02-11-08 against Sharon Morris, the Commission finds Ms. Morris guilty of violating 24 *Delaware Code* §2912 (a) (1) in that she made substantial misrepresentations concerning the validity of the check given to the Hogan Firm in the amount of 32,500; § 2912 (a) (5) in that she failed, within a reasonable time, to account for or to remit any moneys coming into her possession which belonged to others; § 2912 (a) (6) in that she was incompetent to act as a real estate salesperson in such manner as to safeguard the interest of the public; § 2912 (a) (12) in that she engaged in conduct that constituted improper, fraudulent or dishonest dealing and Ms. Morris' license will be revoked and she is ineligible to reapply until the \$25,000 plus interest has been paid. The motion passed unanimously. The hearing ended at 10:59 a.m.

10:00 a.m. – Case 02-39-07 Against Gina Thomas

This hearing was cancelled because the case was dismissed by Barbara Gadbois, Deputy Attorney General.

10:00 a.m. – Hearing Regarding Claim Against the Guaranty Fund – Tisdell v. Hartman and Associates

Mr. Allamong called the formal hearing to order at 11:05 a.m. At its meeting on August 13, 2009, the Commission proposed to deny the request of Gary Bryde, Esquire, on behalf of the Tisdells, for compensation from the Real Estate Guaranty Fund. The Commission proposed to deny Mr. Bryde's request for the following reasons:

24 *Delaware Code* § 2922 (a) provides that a person may obtain recovery from the Fund, provided certain requirements are met. Specifically, the claimant must obtain "a final judgment against a real estate broker or salesperson." Further, § 2922 (b) includes a notice provision. "When an aggrieved person commences an action which may result in collection from the Fund, the aggrieved person's attorney shall notify the Commission in writing within 60 days of the commencement of the action."

Present for the hearing were Mr. Bryde, Douglas and Vicki Tisdell. Mr. Bryde had set forth in writing that he wished to waive the right to 20 days' notice of the hearing and wanted to proceed with this matter at this meeting. Verbatim testimony was recorded by the court reporter.

Mr. Tisdell was sworn in by the court reporter and answered questions from Mr. Bryde and Commission members.

The Commission went off the record at 11:45 a.m. to hold deliberations. The Commission went back on the record at 12:16 p.m. The Commission went off the record at 12:21 p.m. for further deliberations. The Commission went back on the record at 12:31 p.m. A motion was made by Mr. Whitfield, seconded by Mr. White to deny the request because the notice provision required by § 2922(b) had not been met. The motion passed by majority vote. Ms. Stokes and Ms. O'Brien voted against the motion. The hearing closed at 12:32 p.m.

The Commission took a recess from 12:33 p.m. to 12:40 p.m.

**NEW BUSINESS CONTINUED**

Status of Complaints

Complaint No. 02-11-07 – Hearing was scheduled for December  
Complaint No. 02-14-09 – Referred to the Attorney General's Office  
Complaint No. 02-21-09 – Assigned to Mr. White  
Complaint No. 02-22-09 – Closed  
Complaint No. 02-42-08 – Hearing was scheduled for November  
Complaint No. 02-43-08 – Hearing was scheduled for November  
Complaint No. 02-23-09 – Assigned to Mr. Givens

Education Committee Report

Recommendation to Approve and Deny Course Providers, Instructor Applications and Student Requests as Noted

A motion was made by Mr. Staton, seconded by Mr. Whitfield to approve and deny course providers, instructor applications and student requests as noted in the minutes of the October 1, 2009 meeting of the Real Estate Education Committee. The motion passed unanimously.

#### Review of Results and Recommendations from Audit

Ms. Melvin provided the results and recommendations from the review of the audit licensees that was completed by the Education Committee on October 1, 2009. Ms. Melvin reported the following results and recommendations:

1. Once license did not submit a copy of the certificate showing completion of a course. The Education Committee recommended sending a letter to this licensee requesting the certificate.
2. Two brokers and seven salespersons did not respond to the audit. The Education Committee recommended that these licensees be scheduled for a hearing to show cause why their license should not be suspended or revoked.

A motion was made by Mr. Staton, seconded by Mr. Whitfield to accept the recommendations from the Education Committee. The motion passed unanimously.

#### Sheila Barr: Review of Request for Waiver

The letter from Sheila Barr requesting a waiver of the thirty sales transactions was reviewed by the Commission. A motion was made by Mr. Allamong, seconded by Mr. White that the Chairperson will draft a letter to Ms. Barr advising her that when she submits her application for a broker's license, she should include her experience and the type of real estate transactions that she has managed. The motion passed unanimously.

#### Leroy Morris – Reversal of Decision Revoking License

Ms. Heeney advised that Mr. Morris has contacted the office regarding his license. His broker's license had been revoked by the Commission; however, the decision had been reversed by Superior Court. She advised that his license is reinstated as if it were never revoked. However, the continuing education issue should be addressed. A motion was made by Mr. Staton, seconded by Mr. White that Mr. Morris must complete eight hours of continuing education for the 2008 renewal. The motion passed unanimously.

#### **OLD BUSINESS**

##### Sign Final Order from Hearing Regarding Case 02-24-08 Against Mark D. Epstein

This was tabled until the next meeting.

##### Discussion: Common Law Agency Disclosure – Mr. Allamong

This was tabled until the next meeting.

##### Rule and Regulation 7.3 Advertising – Discussion on IDX, VOW and RETS Usage by Licensees

Mr. White gave an update on his progress with researching this issue. He will continue getting feedback and plans to have proposed revisions to this rule and regulation completed when the Subcommittee starts working on the proposed revisions to the rules and regulations next year.

#### Update on Proposed Revisions to the Statute by the Subcommittee to Review Statute Revisions

Mr. Whitfield reported that information sessions have been held in Kent and New Castle counties. The last session will be held in Sussex County on October 9<sup>th</sup>. A letter has been received from the Council on Real Estate Appraisers expressing their concern about the CMA. Mr. Whitfield will be attending the Council meeting on October 20<sup>th</sup>. The next meeting of the Subcommittee is scheduled for October 12<sup>th</sup>. The Subcommittee plans to have a draft to Commission members for review at the November meeting.

#### Online Delaware Law-Pre-Licensing – Mr. Allamong

Mr. Allamong stated that he would like to send this topic back to the Education Committee for further research and to come back to the Commission with a report. He suggested contacting ARELLO to see what other states are currently doing and their results. He also suggested contacting the Frederick Academy about their pass rate. Mr. Whitfield reported that he had spoken to Mr. McGavisk and this is allowable under the current Education Guidelines. A motion was made by Mr. Whitfield, seconded by Mr. Staton that the Education Committee investigates the possibility of having the law portion of the pre-licensing course online. The motion was passed unanimously.

#### **OTHER BUSINESS BEFORE THE COMMISSION** (for discussion only)

Mr. White reported that he had spoken with Sam Prado about non-conforming use of properties in New Castle County. Mr. Prado thought that realtors should be involved because of seller's disclosure and asked if the seller's disclosure form could be changed to include the current zoning of the property. Mr. White advised Mr. Prado to write a letter to the Commission addressing his concerns.

#### **PUBLIC COMMENT**

Ms. Elmore asked about the Commission's decision regarding Mr. Connor. She also asked which Commissioners would be attending the information session scheduled to be held in Sussex County the next day.

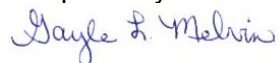
#### **NEXT SCHEDULED MEETING**

The next meeting will be held on Thursday, November 12, 2009 at 9:00 a.m.

#### **ADJOURNMENT**

A motion was made by Mr. Whitfield, seconded by Mr. Staton to adjourn the meeting. The motion passed unanimously. The meeting adjourned at 1:35 p.m.

Respectfully submitted,



Gayle L. Melvin  
Administrative Specialist III