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DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING MINUTES:	DELAWARE REAL ESTATE COMMISSION
MEETING DATE AND TIME:	Friday, May 20, 2011 at 9:00 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room B , second floor of the Cannon Building
MINUTES APPROVED:	June 9, 2011

MEMBERS PRESENT

Vincent M. White, Professional Member, Chairman
Andrew Staton, Professional Member, Vice Chairman
Christopher J. Whitfield, Professional Member, Secretary
Gilbert Emory, Public Member
Patricia O'Brien, Public Member
Ricky H. Allamong, Professional Member
James C. Brannon, Jr., Public Member

DIVISION STAFF/ DEPUTY ATTORNEY GENERAL

Eileen Heeney, Deputy Attorney General
Gayle Melvin, Administrative Specialist III
Roger Akin, Chief Hearing Officer
Kristen Gibbons, Hearing Officer

MEMBERS ABSENT

Denise R. Stokes, Public Member
Michael Harrington, Sr., Professional Member

ALSO PRESENT

Tim Riale
Denise Tatman, DAR
Andy Taylor
TracyLee Elmore, SCAOR
Gerard Cain

Jennifer Behm
Kevin Odle
Margaret Poisson
Sherrill Fulton
Candy Jock
Nicole Bustamante
Joseph P. Connor, Jr.
Donald Ash
Juli LaBadia, Court Reporter

CALL TO ORDER

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

REVIEW OF MINUTES

A motion was made by Mr. Staton, seconded by Mr. Whitfield to approve the minutes of the meeting held on April 14, 2011. The motion passed unanimously.

NEW BUSINESS

Applications for Licensure

A motion was made by Mr. Brannon, seconded by Mr. Emory to ratify the following new salesperson applicants as presented:

Dena Pulgini, Keller Williams, Christiana, DE
Donna Carolan, Mann & Sons, Inc., Rehoboth Beach, DE
Kim Stockson, Ocean Atlantic Sotheby's International Realty, Rehoboth Beach, DE
Brett Reilly, Layton Associates Real Estate, Ocean View, DE
Barbara Bocchino, Mann & Sons, Inc., Rehoboth Beach, DE
Nicholas Hammonds, Jack Lingo Inc., Realtor, Rehoboth Beach, DE
Christian Donovan, Applebaum Realty, Wilmington, DE
Ann Cunningham, Ocean Atlantic Sotheby's International Realty, Rehoboth Beach, DE
Douglas Motley, Jack Lingo Inc., Realtor, Rehoboth Beach, DE
Susan Kazala, Long & Foster, Rehoboth Beach, DE
Carol Ryan, Keller Williams, Middletown, DE
Ann Holtz, Sun Commercial Real Estate, Ocean Pines, MD
Kailas Nathan, Keller Williams, Christiana, DE
Christopher McAleer, Patterson Schwartz, Newark, DE
Travis Dorman, Re/Max of Wilmington, Wilmington, DE
Donna Knauer, Long & Foster, Bear, DE
Christine Bureau, Keller Williams, Christiana, DE
Brian Fehnel, Harrison Properties Ltd., Wilmington, DE
Richard Brooks, Keller Williams, Christiana, DE
Shawn Sylvia, Callaway, Farnell & Moore, Inc., Seaford, DE
Ryan Ewing, Patterson Schwartz, Greenville, DE
Latasha Wisher, Long & Foster, Bear, DE
Kristin King, Long & Foster, Bethany Beach, DE
Judith Griffing, Mann & Sons, Inc., Rehoboth Beach, DE
Dorothy Walker, Long & Foster, Elkton, MD

Henry Renaud, New Genesis, LLC, Vienna, VA
Barton Sink, Buyers Choice Real Estate Services, Ocean City, MD
Dawn Wolf, Re/Max 1st Choice, Middletown, DE
Kathryn Randall, Jack Lingo Inc, Realtor, Rehoboth Beach, DE

The motion passed unanimously.

The application of Linda McCauley 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 Ernest Hueter 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 resident broker's license was reviewed. A motion was made by Mr. Allamong, seconded by Mr. Emory to approve this application. The motion passed unanimously.

The application of Alexander Gamble for a non-resident salesperson's license was reviewed. A motion was made by Mr. Brannon, seconded by Ms. O'Brien to approve this application. The motion passed unanimously.

The application of Cynthia Ford for a resident salesperson's license was reviewed. A motion was made by Mr. Staton, seconded by Mr. Brannon to approve this application. The motion passed unanimously.

The application of Linda Chick for a resident salesperson's license was reviewed. A motion was made by Mr. Staton, seconded by Mr. Brannon to approve this application pending receipt of completion of 15 hours in an approved pre-licensing course. The motion passed unanimously.

Review of Letter from Bruce Plummer Requesting to be Licensed with Two Companies

The Commission reviewed a letter from Bruce Plummer requesting to be licensed with two companies. A letter will be sent to Mr. Plummer advising him of the moratorium on issuing licenses with two companies that became effective on April 15, 2011.

New Office

The application of Resort Referral Services, LLC for a new office was reviewed. A motion was made by Mr. Allamong, seconded by Mr. Brannon to approve this office pending receipt of notification of a broker of record. The motion passed unanimously.

Reinstatement of License

The application of Lonnie Johnson for reinstatement of a resident salesperson's license was reviewed. A motion was made by Mr. Brannon, seconded by Mr. Allamong to approve Mr. Johnson for reinstatement. The motion passed unanimously.

Status of Complaints

Complaint No. 02-06-11 – Assigned to Mr. White
Complaint No. 02-07-11 – Assigned to Mr. Harrington

Education Committee Report

Review of Delaware Canons of Ethics for the Real Estate Industry

This was tabled until the next meeting.

Review of Revised Draft of Core Course Contents

Mr. Riale reported that the changes to the modules that were discussed at the last meeting had been made. Commission members received a copy of the revised draft for review. A discussion was held about relevant classes not being offered, whether to increase the number of hours and if legislative update should be required. Public comment was received from Ms. Elmore, Ms. Tatman and Mr. Taylor. A motion was made by Mr. Whitfield, seconded by Mr. Staton to approve the core course contents with the following changes: Module 5 will be Legislative Issues; Module 6 will be Practices of Real Estate; and Module 7 will be Elective Courses. The motion passed unanimously.

Review of Sample Certificate for Continuing Education Courses

The Commission reviewed the sample certificate that will be issued to licensees when they complete continuing education courses. Currently, there is not a standard certificate for all course providers to use which is confusing for the licensees. It was suggested adding language stating that this course meets the requirements for which specific module and the licensure period that the course is good for. It was also discussed that if a certificate needs to be reissued to a licensee, a reissue date be added to the certificate. A motion was made by Mr. Staton, seconded by Mr. Brannon to approve the sample certificate that must be used by all course providers with the suggested changes to be effective May, 2012. The motion passed unanimously.

Review of Course Outline Template

The Commission reviewed a draft of the course outline template. Currently, there is not a standard form for all providers to use. This was tabled until the next meeting. The Commission requested to see a sample.

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

A motion was made by Mr. Whitfield, seconded by Mr. Staton to approve and deny course providers, instructor applications and student requests as noted in the minutes of the May 5, 2011 meeting of the Real Estate Education Committee. The motion passed unanimously.

RULE TO SHOW CAUSE HEARINGS

Gerard A. Cain

Ms. Heeney called the rule to show cause hearing to order at 9:40 a.m. This hearing was held for Gerard A. Cain to show cause why the Commission should not take disciplinary action against his license for failure to provide proof of completion of the mandatory legislative update course between the dates of May 1, 2008 through April 30, 2010. Mr. Cain was present for the hearing, presented testimony and answered questions from Commission members. Verbatim testimony was recorded by the court reporter.

At 9:48 a.m., the Commission went off the record for deliberations. The Commission went back on the record at 9:49 a.m. A motion was made by Mr. Staton, seconded by Mr. Whitfield that the Commission accepts the certificate from the course “Legislative Issues” taken on January 20, 2011. Mr. Cain will not be able to use this legislative update course for the 2012 renewal. The motion passed unanimously. The hearing concluded at 9:50 a.m.

The Commission took a recess from 9:53 a.m. to 10:02 a.m.

Jennifer Behm

Ms. Heeney called the rule to show cause hearing to order at 10:03 a.m. This hearing was held for Jennifer Behm to show cause why the Commission should not take disciplinary action against her license for failure to provide proof of completion of 15 hours of approved continuing education and the mandatory legislative update course during the May 1, 2008 through April 30, 2010 licensure period. Ms. Behm was present for the hearing, presented testimony and answered questions from Commission members. Verbatim testimony was recorded by the court reporter.

At 10:09 a.m., the Commission went off the record for deliberations. The Commission went back on the record at 10:17 a.m. A motion was made by Mr. Staton, seconded by Mr. Whitfield that the Commission issues a letter of reprimand to Ms. Behm. The Commission accepts the hours from the course “Understanding the New Bankruptcy Reform Act” taken on May 5, 2011 for the 2008 through 2010 licensure period. Ms. Behm will not be able to use this course for the 2012 renewal and her record will be flagged for audit for the 2012 renewal. Ms. Behm must provide the Commission office with a copy of the certificate from the additional course that she testified she completed by close of business on Tuesday, May 24, 2011 or her license will be suspended for a minimum of 14 days or until she provides a copy of the certificate to the Commission office. Ms. Behm will not be able to use this course for the 2012 renewal. The motion passed unanimously. The hearing concluded at 10:18 a.m.

Kevin Odle

Ms. Heeney called the rule to show cause hearing to order at 10:23 a.m. This hearing was held for Kevin Odle to show cause why the Commission should not take disciplinary action against his license for failure to provide proof of completion of the mandatory legislative update course between the dates of May 1, 2008 through April 30, 2010. Mr. Odle was present for the hearing, presented testimony and answered questions from Commission members. Verbatim testimony was recorded by the court reporter.

At 10:24 a.m., the Commission went off the record for deliberations. The Commission went back on the record at 10:25 a.m. A motion was made by Mr. Staton, seconded by Mr. Brannon that the Commission accepts the certificate from the course “Real Estate Disclosure” taken on April 2, 2011. Mr. Odle will not be able to use this legislative update course for the 2012 renewal. The motion passed unanimously. The hearing concluded at 10:25 a.m.

Margaret Poisson

Ms. Heeney called the rule to show cause hearing to order at 10:30 a.m. This hearing was held for Margaret Poisson to show cause why the Commission should not take disciplinary action against her license for failure to provide proof of completion of 15 hours of approved continuing education during the May 1, 2008 through April 30, 2010 licensure period. A rule to show hearing was held for Ms. Poisson on March 22, 2011. It was the Commission’s decision at that hearing to allow Ms. Poisson 7 days in which to provide certificates. Because she did not provide the certificates, she was required to

appear for a second rule to show cause hearing. Ms. Poisson was present for the hearing, presented testimony and answered questions from Commission members. Sherrill Fulton, broker of record, was present and spoke about the reasons why Ms. Poisson had not completed the required continuing education. Verbatim testimony was recorded by the court reporter.

At 10:43 a.m., the Commission went off the record for deliberations. The Commission went back on the record at 10:45 a.m. A motion was made by Mr. Staton, seconded by Mr. Whitfield that the Commission issues a letter of reprimand to Ms. Poisson. Ms. Poisson must provide the Commission office with a copy of the certificates from the courses that she testified she completed by close of business on Tuesday, May 24, 2011 or her license will be suspended for a minimum of 14 days or until she provides a copy of the certificates to the Commission office. Ms. Poisson will not be able to use these courses for the 2012 renewal and her record will be flagged for audit for the next 2 licensure periods. The motion passed by majority vote. Mr. White voted against this motion. The hearing concluded at 10:47 a.m.

Candy Jock

Ms. Heeney called the rule to show cause hearing to order at 10:50 a.m. This hearing was held for Candy Jock to show cause why the Commission should not take disciplinary action against her license for failure to provide proof of completion of 15 hours of required continuing education courses between the dates of May 1, 2008 through April 30, 2010. Ms. Jock was present for the hearing, presented testimony and answered questions from Commission members. Ms. Jock presented copies of course certificates showing completion of 15 hours of approved continuing education between the dates of May 1, 2008 through April 30, 2010. Verbatim testimony was recorded by the court reporter.

At 10:54 a.m., the Commission went off the record for deliberations. The Commission went back on the record at 10:55 a.m. A motion was made by Mr. Whitfield, seconded by Mr. Staton that the Commission accepts Ms. Jock's certificates. The motion passed unanimously. The hearing concluded at 10:56 a.m.

Nicole Bustamante

Ms. Heeney called the rule to show cause hearing to order at 10:58 a.m. This hearing was held for Nicole Bustamante to show cause why the Commission should not take disciplinary action against her license for failure to provide proof of completion of 15 hours of required continuing education courses between the dates of May 1, 2008 through April 30, 2010. Ms. Bustamante was present for the hearing, presented testimony and answered questions from Commission members. Verbatim testimony was recorded by the court reporter.

At 11:06 a.m., the Commission went off the record for deliberations. The Commission went back on the record at 11:10 a.m. A motion was made by Mr. Staton, seconded by Mr. Whitfield that the Commission issues a letter of reprimand to Ms. Bustamante. Ms. Bustamante must provide the Commission office with a copy of the certificate from the online course "Property Management and Managing Risk" taken on May 19, 2011 within 14 days or her license will be suspended for a minimum of 14 days or until she provides a copy of the certificate to the Commission office. Ms. Bustamante will not be able to use this course for the 2012 renewal and her record will be flagged for audit. The motion passed unanimously. The hearing concluded at 11:12 a.m.

Leashawn Malone

Ms. Heeney called the rule to show cause hearing to order at 11:15 a.m. This hearing was held for Leashawn Malone to show cause why the Commission should not take disciplinary action against her license for failure to provide proof of completion of 15 hours of required continuing education courses between the dates of May 1, 2008 through April 30, 2010. Ms. Malone was not present for the hearing. The certified mail green card had been returned to the Commission office showing that Ms. Malone had received the hearing notice. Verbatim testimony was recorded by the court reporter.

At 11:16 a.m., the Commission went off the record for deliberations. The Commission went back on the record at 11:18 a.m. A motion was made by Mr. Staton, seconded by Mr. Brannon that the license of Leashawn Malone is suspended until she appears before the Commission. The motion passed unanimously. The hearing concluded at 11:19 a.m.

Mr. White asked Ms. Heeney to provide advice on how to proceed with a hearing if the licensee does not appear for the hearing and the certified mail green card has been signed by someone other than the licensee.

Peter Holtz

Ms. Heeney called the rule to show cause hearing to order at 11:23 a.m. Mr. White recused himself from the hearing. Mr. Staton chaired the meeting during the hearing. This hearing was held for Peter Holtz to show cause why the Commission should not take disciplinary action against his license for failure to provide proof of completion of 15 hours of required continuing education courses between the dates of May 1, 2008 through April 30, 2010. Mr. Holtz was not present for the hearing. Ms. Melvin testified regarding the notification of the hearing to Mr. Holtz. The hearing notice that was sent by certified mail was returned as unclaimed. The hearing notice that was sent by regular mail was not returned. Verbatim testimony was recorded by the court reporter.

At 11:25 a.m., the Commission went off the record for deliberations. The Commission went back on the record at 11:28 a.m. A motion was made by Mr. Whitfield, seconded by Mr. Allamong that the license of Peter Holtz is suspended until he appears before the Commission. The motion passed by majority vote. The hearing concluded at 11:30 a.m.

The Commission took a recess from 11:30 a.m. to 11:38 a.m.

Further Proceedings Regarding the Letter from Donald L. Gouge, Jr., on Behalf of Joseph P. Connor, Jr. Requesting to Have his License Reinstated.

Ms. Heeney called the proceedings to order at 11:44 a.m. Commission members reviewed the letter from Mr. Gouge and the final order from the proceedings held on April 8, 2010 for Mr. Connor. Mr. Connor was present and was sworn in by the court reporter. Verbatim testimony was recorded by the court reporter. Mr. Connor stated that he had made a decision not to have his counsel present. He referred Commission members to page 11, specifically number 4, of the final order, which states that his suspension shall not be lifted until further proceedings are held before the Commission. He asked that the Commission lift the suspension of his license and answered questions from Commission members.

At 11:55 a.m., the Commission went off the record for deliberations. The Commission went back on the record at 11:56 a.m. A motion was made by Mr. Allamong, seconded by Mr. Brannon to reinstate Mr.

Connor's license effective June 15, 2011. The motion passed unanimously. The proceedings concluded at 11:57 a.m.

Thomas J. Cooper – Review of Written Request for Dismissal of his Rule to Show Cause Hearing Matter

Commission members reviewed Mr. Cooper's Affidavit, setting forth his request that the Commission dismiss his rule to show cause hearing matter and take no disciplinary action against his license. The Commission also reviewed the Exhibits to the Affidavit and Mr. Cooper's continuing education documentation. Ms. Heeney explained to Commission members that they must decide whether to dismiss the continuing education matter or proceed with a rule to show cause hearing. Mr. Staton recused himself because Mr. Cooper had contacted him and sent him information regarding this matter. A discussion was held whether to grant Mr. Cooper's request and dismiss the rule to show cause proceeding. In the Exhibits to the Affidavit, Mr. Cooper presented information to the effect that he believed he had 9 hours of continuing education from the March 5, 2010 broker's core course. The Commission addressed whether this claim was credible. There was also discussion as to whether to accept Mr. Cooper's January 25, 2011 continuing education hours as satisfying the 2008 – 2010 requirements. A motion was made by Mr. Whitfield, seconded by Mr. Allamong, to accept Mr. Cooper's certificate from the course taken on January 25, 2011 and order that this course cannot be used for the 2012 renewal. After further discussion, the motion was withdrawn by Mr. Whitfield. The Commission discussed that all licensees should be treated the same and that, in every other rule to show cause matter, the licensee has been required to appear to address the Commission. The Commission determined that it would like to hear from Mr. Cooper. A motion was made by Mr. Whitfield, seconded by Mr. Emory that Mr. Cooper must appear for a rule to show cause hearing. The motion passed by majority vote. Mr. Whitfield, Mr. White, Ms. O'Brien and Mr. Emory voted in favor of the motion. Mr. Brannon and Mr. Allamong voted against the motion.

HEARING

Case No. 02-06-09 Against Sean Steward

At the request of Barbara Gadbois, Deputy Attorney General, the complaint has been dismissed and the hearing cancelled in Case No. 02-06-09 against Sean Steward.

NEW BUSINESS CONTINUED

Review of Letter from Brian Dawicki Requesting a Waiver of the One-Year Requirement

The Commission reviewed the letter from Brian Dawicki requesting a waiver of the one-year requirement. A motion was made by Mr. Staton, seconded by Mr. Whitfield to grant Mr. Dawicki's request for the waiver and to approve his application for a resident salesperson's license. The motion passed unanimously.

Review of Letter from Laurie Marino Requesting a Waiver of the Five-Year Experience Requirement in Obtaining a Broker's License

The Commission reviewed the letter from Laurie Marino requesting a waiver of the five-year experience requirement in obtaining a broker's license. A motion was made by Mr. Whitfield, seconded by Ms. O'Brien to deny Ms. Marino's request based on Rule and Regulation 3.2.1. The motion passed unanimously.

Review of Letter from Sharon Burkett in Response to the Final Order from her Rule to Show Cause Hearing

The Commission reviewed the letter from Sharon Burkett in response to the Commission's final order from her rule to show cause hearing. A motion was made by Mr. Staton, seconded by Mr. Allamong to schedule Ms. Burkett for a second rule to show cause hearing. The motion passed unanimously.

Review and Approval of Proposed Revisions to the Statute and Delegate Authority to the Subcommittee to Review Statute Revisions to Make Revisions to the Statute as Directed by the Joint Sunset Committee

Mr. Whitfield advised the Commission of the items that still need to be addressed by the Joint Sunset Committee. The Joint Sunset Committee will address these items at their May 24, 2011 meeting. A motion was made by Mr. Whitfield, seconded by Mr. Brannon that the Commission approves the CMA language, the property management clarification language, the additional definitions and any other changes that the Joint Sunset Committee deems necessary at the May 24th meeting and to delegate to the Subcommittee to Review Proposed Revisions to the Statute to determine the effective date of the proposed legislation. The motion passed unanimously.

OLD BUSINESS

Sign Final Orders from Rule to Show Cause Hearings Held on March 22, 2011

This was tabled until the next meeting.

Discussion: Annual Seminar

It was decided that the annual seminar will be held on September 8, 2011 at Poly-Tech Adult Education Center in Woodside from 9:00 a.m. to 12:00 Noon. It was requested that Mr. Riale ask the Education Commission for suggestions of topics and speakers. Mr. Taylor volunteered to be a speaker.

Report on ARELLO Mid-Year Meeting Held on April 4-6, 2011 – Mr. White

This was tabled until the next meeting.

Sign Final Order from Hearing Held for Case No. 02-40-07 Against Michele L. Spaulding

This was tabled until the next meeting.

OTHER BUSINESS BEFORE THE COMMISSION (for discussion only)

There was no other business brought before the Commission.

PUBLIC COMMENT

Ms. Tatman stated that she had questions on numbers 44 and 45 of the final recommendations from the Joint Sunset Committee. Ms. Heeney advised that these were under the regulatory changes and would be addressed in the rules and regulations.

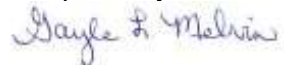
NEXT SCHEDULED MEETING

The next meeting will be held on Thursday, June 9, 2011 at 9:00 a.m.

ADJOURNMENT

A motion was made by Mr. Brannon, seconded by Mr. Staton to adjourn the meeting. The motion passed unanimously. The meeting adjourned at 12:47 p.m.

Respectfully submitted,



Gayle L. Melvin
Administrative Specialist III