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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE REAL ESTATE COMMISSION

TIME: 11:00 A.M.

BOARD ROOM B
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

Wednesday, September 26, 2018

1 ***

2 State Real Estate Commission

3 September 26, 2018

4 ***

5 The regularly scheduled meeting of the State Real
6 Estate Commission was held on Wednesday, September 26,
7 2018. Alexis L. Barbieri, Chair, Public Member,
8 officially called the meeting to order at 11:00 a.m.
9 A roll call was taken. The Pledge of Allegiance was
10 recited.

11 ***

12 Approval of Minutes of the August 21, 2018 meeting

13 CHAIR BARBIERI:

14 I'd like to call for approval of the
15 draft minutes of the August 21, 2018
16 meeting.

17 MR. FERRARA:

18 So moved.

19 MS. CESTRA:

20 Second.

21 CHAIR BARBIERI:

22 All in favor? Opposed?

23 [The motion carried. Anne Rubin abstained from voting
24 on the motion.]

25 ***

1 Report of Prosecutorial Division

2 [Caroline A. Bailey, Esquire, Commission Prosecutor,
3 presented the Consent Agreement for File No. 18-56-
4 005791.]

5 ***

6 Report of Commission Counsel

7 [Juan A. Ruiz, Esquire, Commission Counsel, noted five
8 Adjudications and Orders, three final Adjudications
9 and Orders, a Motion to Enter Default, and an
10 Application for Stay to be discussed during Executive
11 Session.

12 Mr. Ruiz stated the Rules and Regulations
13 Committee met to discuss temporary regulations for
14 broker price opinions as required by the passage of
15 the amendment to the Real Estate Licensing and
16 Registration Act and referred Commissioners to the
17 Annex for further discussion.

18 Mr. Michalowski noted concerns under the Act with
19 regard to broker price opinion (BPO) in conjunction
20 with the short sale of a property. He suggested that
21 the Commission may want to put a limitation on that
22 due to a conflict of interest.

23 Ms. Rubin discussed a licensee doing BPOs for
24 banks and typically being the person listing the
25 property, which was also the case for short sales.

1 She further commented on banks typically asking the
2 licensee working with a loan holder providing a BPO,
3 as well as obtaining a second or third opinion on a
4 property. The licensee in the transaction will supply
5 the information to the banks in both foreclosure
6 situations as well as short sales.

7 Mr. Michalowski discussed the Uniform Standards
8 of Professional Appraiser Practice (USPAP) with regard
9 to compliance and prosecution under the State Board of
10 Certified Real Estate Appraisers. He noted a concern
11 that a broker's price opinion may not be provided to
12 all parties of the transaction. He also discussed
13 providing a disclosure in USPAP.

14 There was discussion with regard to short sales,
15 conflict of interests with buyers and sellers, and
16 foreclosures. He stated a broker price opinion should
17 be an opinion from a third party and not an appraisal.
18 He discussed the importance of whether the broker
19 price opinion was being conducted for the bank or a
20 client.

21 Mr. McGettigan stated the new law may make it
22 easier for a licensee to have another individual
23 conduct a BPO to avoid a conflict. He commented that
24 individuals with a vested interest and being paid a
25 commission on a transaction should not be conducting

1 price opinions on their own listings.

2 Ms. Thomson referred to Section 402, questioning
3 whether a disclaimer would be suitable.

4 Mr. Michalowski stated this was a matter for
5 decision by the Commission. He clarified that the
6 Real Estate Licensing and Registration Act does not
7 state an individual must be as unbiased as in an
8 appraisal. He suggested identifying the client and
9 the intended users.

10 Ms. Cestra questioned whether the broker's price
11 opinion should be added to the agency section of the
12 rules and regulations because of the new relationship
13 being identified.

14 Mr. Michalowski discussed representing a client
15 and then representing the seller and being paid by the
16 bank to conduct a broker price opinion and being
17 compensated by two different entities. He noted that
18 a broker price opinion done as a licensee must be
19 conducted on behalf of the client in order to get the
20 best price, conditions, and terms under Section 606
21 and the regulations.

22 Mr. Ruiz suggested the addition of a separate
23 provision under Section 402 with regard to the
24 disclosure issue in a transaction. He recommended
25 that Mr. Michalowski provide additional language to be

1 presented at the next Commission meeting.]

2 ***

3 Report of Commission Chair - No Report

4 ***

5 Report of Deputy Commissioner

6 [Katelin Lambert, Deputy Commissioner, on behalf of
7 Ian J. Harlow, Commissioner of Professional and
8 Occupational Affairs, updated the Commission on the
9 backlog of applications, noting that the average
10 processing time had been reduced to 25 days.

11 Ms. Lambert addressed configuration of the
12 reactivation application forms and would provide a
13 more accurate timeline for the availability of the
14 forms at the next meeting.

15 Ms. Lambert noted additional adjustments made to
16 the online call center and the call menu with OA
17 Telecom. She indicated that eight technical resources
18 were added to the team to answer PALS support
19 requests.

20 Ms. Lambert discussed the real estate provider
21 renewal and working on a technical solution to open
22 that renewal. She stated providers will receive
23 information via email regarding the completion of the
24 renewal process.

25 Ms. Lambert noted the addition of two staff

1 members in the Commissioner's Office from the
2 Governor's Office to improve communications with the
3 licensing community and stakeholders and to assist
4 with customer service.]

5

6 Report of Commission Administrator

7 [Krista Linsenbach, Commission Administrator,

8 announced that education provider renewals will soon
9 be available.]

10

11 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
12 11:33 a.m. the Commission entered into Executive
13 Session with Juan A. Ruiz, Esquire, Commission
14 Counsel, for the purpose of conducting quasi-judicial
15 deliberations and to receive advice of Counsel. The
16 Commission returned to open session at 1:49 p.m.]

17

18 MOTIONS

19 MR. RUIZ:

20

The Commission was in Executive Session
21 conducting quasi-judicial deliberations
22 on matters that are currently pending
23 before the Commission.

24

Is there a motion to approve the

25

Consent Agreement at File No. 18-56-

1 005791?

2 MS. CESTRA:

3 So moved.

4 MS. RUBIN:

5 Second.

6 CHAIR BARBIERI:

7 All in favor? Opposed?

8 [The motion carried unanimously. The Respondent's
9 name is Janine A. Allan.]

10 ***

11 MR. RUIZ:

12 Is there a motion to direct Counsel to
13 draft final Adjudications and Orders in
14 the cases of Leonard Destine, File No.
15 17-56-09596; Dawn M. Kresge, File No.
16 17-56-10626; Oak Lawn Memorial Gardens,
17 Inc. & James H. Delaney Jr., File Nos.
18 16-56-02210, 16-56-09991, and 16-56-
19 09992; and Christopher James Ward, File
20 No. 16-56-01163?

21 MR. MCGETTIGAN:

22 So moved.

23 MR. FERRARA:

24 Second.

25 CHAIR BARBIERI:

1 All in favor? Opposed?

2 [The motion carried unanimously.]

3 ***

4 MR. RUIZ:

5 Is there a motion to adopt the proposed
6 Adjudication and Order and substitute
7 the Commission's Order consistent with
8 discussions in Executive Session in the
9 case of Lester Othal, Jr., File No. 15-
10 56-0672?

11 MR. FERRARA:

12 So moved.

13 MR. MCGETTIGAN:

14 Second.

15 CHAIR BARBIERI:

16 All in favor? Opposed?

17 [The motion carried unanimously.]

18 ***

19 MR. RUIZ:

20 Is there a motion to grant the Motion to
21 Enter Default and Deem Facts Admitted in
22 the case of Amy Gipe, File No. 15-56-
23 10070?

24 MR. MCGETTIGAN:

25 So moved.

1 MR. TARANTINO:

2 Second.

3 CHAIR BARBIERI:

4 All in favor? Opposed?

5 [The motion carried unanimously.]

6 ***

7 MR. RUIZ:

8 Is there a motion to deny the
9 Application for Stay in the case of
10 Bryan J. Hawes, File No. 13-56-07967?

11 MR. TARANTINO:

12 So moved.

13 CHAIR BARBIERI:

14 Second?

15 MR. FERRARA:

16 Second.

17 CHAIR BARBIERI:

18 All in favor? Opposed?

19 [The motion carried unanimously.]

20 ***

21 Education Committee

22 MS. CESTRA:

23 I would like to make the motion to
24 approve Joshua Goldfine's Application
25 for Broker's Examination.

1 MR. MCGETTIGAN:

2 Second.

3 CHAIR BARBIERI:

4 All in favor? Opposed?

5 [The motion carried unanimously.]

6 ***

7 MS. CESTRA:

8 I would like to make a motion that we
9 preliminarily deny the Broker
10 Application for Kevin R. Cybularz and
11 Therese Farrow in that the experience
12 required for broker's licensure has not
13 been completed.

14 So moved.

15 MS. RUBIN:

16 Second.

17 CHAIR BARBIERI:

18 All in favor? Opposed?

19 [The motion carried unanimously.]

20 ***

21 MS. CESTRA:

22 I would like to make the motion that we
23 approve the education portion of the
24 application for Osmond Mincarelli but
25 preliminarily deny the experience

1 portion of the application.

2 MR. FERRARA:

3 Second.

4 CHAIR BARBIERI:

5 All in favor? Opposed?

6 [The motion carried unanimously.]

7 ***

8 MS. CESTRA:

9 I make a motion that on the application
10 of Connor O'Hanlon that the salesperson
11 license be preliminarily denied.

12 MS. RUBIN:

13 Second.

14 CHAIR BARBIERI:

15 All in favor? Opposed?

16 [The motion carried unanimously.]

17 ***

18 Enforcement (Informal Conferences)

19 MR. TARANTINO:

20 I make a motion that we approve, with no
21 restrictions, the application of Cheron
22 Russell.

23 MR. MCGETTIGAN:

24 Second.

25 CHAIR BARBIERI:

1 All in favor? Opposed?

2 [The motion carried unanimously.]

3 ***

4 MR. TARANTINO:

5 I make a motion that we approve and
6 place their license on probation through
7 their criminal probation and/or payment
8 of restitution for Cory Thomas Abram and
9 Frank Paul Miranda.

10 MS. CESTRA:

11 Second.

12 CHAIR BARBIERI:

13 All in favor? Opposed?

14 [The motion carried unanimously.]

15 ***

16 Enforcement (Application Reviews)

17 MR. TARANTINO:

18 I make a motion that we find no barrier
19 towards licensure for Jennifer J. White
20 and Jennifer Lynn Moll.

21 MR. FERRARA:

22 Second.

23 CHAIR BARBIERI:

24 All in favor? Opposed?

25 [The motion carried unanimously.]

1 ***

2 MR. TARANTINO:

3 I make a motion that we preliminarily
4 deny the application and advise the
5 applicant of his right to an informal
6 conference for Christopher Salvatore
7 Ruocco.

8 MR. MCGETTIGAN:

9 Second.

10 CHAIR BARBIERI:

11 All in favor? Opposed?

12 [The motion carried unanimously.]

13 ***

14 MR. TARANTINO:

15 We tabled the application of Richard
16 Valorie.

17 ***

18 [The Commission recessed from 1:56 p.m. until
19 2:01 p.m.]

20 ***

21 [Anne M. Rubin, Secretary, Industry Member, re-entered
22 the meeting at 2:03 p.m.]

23 ***

24 Public Session

25 [Todd Umbenhauer, CRB, CRS, GRI, 2018 President,

1 Pennsylvania Association of Realtors, provided PAR
2 updates. He stated the Pennsylvania Association of
3 Realtors (PAR) continues to vet recommendations
4 through the Committee and other processes. PAR met
5 over the summer to review the proposed definition of
6 "teams" and "team administrator".

7 He noted that Committee members received and
8 carefully considered the Commission's input, noting
9 the Committee's definitions of "teams" and "team
10 administrator". He stated the Committee's
11 recommendation would require more education for a
12 nonbroker licensee to become a team administrator than
13 what was originally proposed. PAR did not want to
14 make the requirements to be a team administrator
15 overly burdensome given the Governor's position on
16 barriers to employment.

17 Mr. Umbenhauer discussed the Committee's proposal
18 with regard to the responsibilities of a team
19 administrator. He also noted the Committee's
20 recommendations with regard to the compliance rules.
21 He discussed the existence of the team, the
22 performance of the team administrator not affecting
23 the responsibilities of the broker to supervise the
24 broker's employees, and the application of Chapter 6
25 with regard to actions or inactions of the team or any

1 of its members.

2 Mr. Umbenhauer stated this proposed course of
3 action would require additional regulations to be
4 adopted by the State Real Estate Commission. PAR was
5 ready to work with the Commission in this effort and
6 keep the Commission apprised as new developments
7 arise.

8 Mr. Tarantino questioned an individual's ability
9 to choose, as well as to inform the consumer, whether
10 or not they are on a team or not. Mr. Umbenhauer
11 discussed providing a written disclosure.

12 Mr. Tarantino requested clarification of the word
13 "reasonable" when used in the phrase reasonable
14 adequate supervision of a team. Mr. Umbenhauer
15 explained that the broker and team administrator would
16 have to have an understanding.

17 Mr. Tarantino expressed a concern that brokers
18 may let team administrators just "run with the ball".
19 Mr. Umbenhauer indicated that ultimately the broker of
20 record would be in charge, and that a team
21 administrator must be an active member of the team.

22 It was noted that PAR may be "insulating" the
23 broker of record more and more and putting the burden
24 on another individual to run the companies. There was
25 an inquiry as to PAR's ability to resolve problems

1 with this matter.

2 Mr. Umbenhauer stated a number of brokers of
3 record in the field are not in touch with their
4 licensees, staff and managers. He noted that the
5 introduction of a team administrator should increase
6 the likelihood of assuring that the responsibilities
7 of the licensee were being fulfilled as not only
8 governed by the law but at the behest of the broker.

9 Mr. Tarantino suggested making the team
10 administrator responsible for the acts of the team
11 members just as the broker of record would be
12 responsible for the acts of the salespeople.

13 Ms. Rubin discussed having an associate broker or
14 broker as the administrator and not creating a new
15 license category. She discussed offices within an
16 office. She mentioned the requirement for a broker's
17 license. Mr. Umbenhauer noted the recommendation
18 focusing on course work that would be important for a
19 team administrator to complete in order to serve in
20 that role.

21 Ms. Rubin questioned the resistance to having the
22 administrator be the person who holds a broker's
23 license. She suggested Mr. Umbenhauer or the task
24 force review the Association of Real Estate License
25 Law Officials (ARELLO) Law and Regulations

1 Subcommittee Report on teams and the latest real
2 estate team rules and legislations from all different
3 states.

4 Mr. Gombach stated the next step would be to take
5 this back to the Legislative Committee and continue
6 processing information from legislators.

7 Mr. Tarantino discussed an article from Hank
8 Lerner regarding "coming soon." He noted RISMedia
9 came out with information regarding "pocket listings."

10 Mr. Umbenhauer stated that "coming soon" was
11 nothing more than a relabeling of "showings beginning
12 on." He stated most of the multiple listing services
13 have very specific rules with regard to when a listing
14 must be submitted to the multiple listing service
15 (MLS). He stated TREND MLS was a part of Bright MLS
16 and required that the seller sign a disclosure if the
17 listing would not be submitted to the MLS within the
18 prescribed two- or three-day period as required by the
19 rules and regulations.

20 Mr. Umbenhauer stated by properly initiating a
21 marking program using "coming soon" or "showings begin
22 on" there would be no problem. He stated there would
23 be no violation of the law and the code of ethics. He
24 stated that licensees, who are realtor members, have
25 filed complaints regarding this practice and in

1 relation to the code of ethics.

2 Mr. Umbenhauer addressed pocket listings, where a
3 licensee obtains a listing from a seller and decides
4 not to use the multiple listing service to sell the
5 property.

6 Pamela Croke, Esquire, RCE, CEO, Bucks County
7 Association of Realtors, and Director of the Bucks
8 County Real Estate Institute, discussed pocket
9 listings, stating the MLS was taking an active role in
10 policing this matter. She also noted hearing a lot at
11 the NAR level about reviewing MLS Policies and
12 Procedures to make them stronger on this issue.

13 Ms. Croke addressed the general concern regarding
14 slow approval for courses and constraints under the
15 Pennsylvania Licensing System (PALS).

16 Ms. Croke noted a concern raised by Anne Marie
17 Matteo regarding tardiness in responding to and/or
18 investigating Real Estate Licensing and Registration
19 Act (RELRA) violations.

20 Ms. Rubin noted a concern with filing
21 anonymously, which works against the system.

22 Ms. Lambert apologized for renewal delays. The
23 PALS system will automatically calculate and remove
24 mail-processing delays. She will provide instructions
25 and additional information.

1 Ms. Lambert addressed payment methods, noting the
2 Automated Clearing House (ACH) payments as a long-term
3 solution. She discussed the PALS Support Center for
4 individuals experiencing issues with PALS.

5 Ms. Lisenbach addressed the backlog of
6 applications and the additional process for paper
7 applications. She suggested checking the PALS
8 verification website for updates to the list of
9 approvals. Ms. Linsenbach offered to assist with
10 information on specific courses and updated
11 information.]

12 ***

13 Adjournment

14 CHAIR BARBIERI:

15 Do I have a motion to adjourn?

16 MR. MCGETTIGAN:

17 So moved.

18 MR. TARANTINO:

19 Second.

20 CHAIR BARBIERI:

21 All in favor?


22 [The motion carried unanimously.]

23 ***

24 [There being no further business, the State Real
25 Estate Commission Meeting adjourned at 3 p.m.]

CERTIFICATE

1
2
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5
6
7 I hereby certify that the foregoing summary
8 minutes of the State Real Estate Commission meeting,
9 was reduced to writing by me or under my supervision,
10 and that the minutes accurately summarize the
11 substance of the State Real Estate Commission meeting.
12

13
14 

15 Amy L. Warehime,

16 Minute Clerk

17 Sargent's Court Reporting
18 Service, Inc.
19
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STATE REAL ESTATE COMMISSION
REFERENCE INDEX

September 26, 2018

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8	11:00	Official Call to Order
9		
10	11:00	Roll Call
11		
12	11:01	Pledge of Allegiance
13		
14	11:01	Approval of Minutes
15		
16	11:02	Report of Prosecutorial Division
17		
18	11:03	Report of Commission Counsel
19		
20	11:27	Report of Chairperson
21		
22	11:27	Report of Deputy Commissioner
23		
24	11:32	Report of Commission Administrator
25		
26	11:33	Executive Session
27	1:49	Return to Open Session
28		
29	1:52	Report of Committees
30		
31	1:56	Recess
32	2:01	Return to Open Session
33		
34	1:32	Report of Committees
35		
36	2:01	Public Session
37		
38	3:00	Adjournment
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