



Pennsylvania Association of REALTORS®

Executive Summary
State Real Estate Commission
1515 Market Street
Philadelphia
July 14-15, 2009

Present at the regular meeting of the Commission were: Chair Michael Weiss, Secretary Joseph Tarantino, Commissioners Beverly Brookes, Annie Hanna Cestra, Joseph McGettigan, Gaetano Piccirilli, John Sommer, and Alexis Barbieri (Office of Attorney General). Also present were Commission Counsel Judith Pachter Schulder, Commission Administrator Patricia Ridley, Real Estate Education Administrator Katie Douglas, and Deputy Secretary of State Sarah Manzano-Diaz.

The following key discussions/actions were taken:

1. The Commission held a moment of silence for deceased member John McGarry, Commission Vice Chair. The Commission promoted Joseph Tarantino to Vice Chair for the remainder of the 2009 term, and approved Jeffrey Johnson as Secretary.
2. The Commission welcomed Deputy Secretary of State Sarah Manzano-Diaz to the meeting, who is attending on behalf of the Department.
3. The Commission adopted the June minutes.
4. Report of Prosecution
 - File 08-56-03783 and 09-56-026799 – This case involves a consumer who engaged the services of a salesperson to find properties in need of restoration and repair. The salesperson failed to note, in writing, of their financial interest in a company that provided an estimate of repair work for a prospective property. The broker also failed to disclose an ownership interest in one prospective property. Terms of the Agreement: \$1,000 civil penalty per respondent. Commission approved.
 - File 08-56-09802 – This case involves a licensee who failed to disclose a criminal conviction within the required 30 days. Terms of Agreement: \$1,000 civil penalty. Commission denied as too lenient.
 - File 09-56-01406 – This case is a companion to two previous consent agreements approved by the Commission. The respondent is the broker of record and is charged with failure to supervise a salesperson who failed to turn over escrow monies. The respondent is also charged with incompetency. Terms of Agreement: \$2,000 civil penalty. Commission approved.
5. The Commission authorized counsel to draft an adjudication and order in the case of Kristine Betz (File 05-56-10702).

6. The Commission adopted the hearing examiners report and authorized counsel to draft an adjudication and order in the following cases:
 - Abraham R. Atimeh (File 07-56-08134)
 - Kenneth Dogan (File 08-56-00629)
 - Jonathan D. Leventry (File 08-56-02424)
7. The Commission deemed facts admitted and authorized counsel to draft an adjudication and order in the case of Todd G. Haring (File 07-56-01097).
8. The Commission denied a motion for reconsideration in the case of Bryan Shine. The Commission asked that he be informed of his right to apply for re-licensure.
9. On July 14, the Commission held a public meeting from 2:00 – 4:00 p.m. The session was spent discussing two issues with the Pennsylvania Association of REALTORS® (PAR).

James Goldsmith, PAR Legal Counsel, addressed the Commission on the pre-draft regulation 16A-5620: Advertising and Solicitation. Mr. Goldsmith inquired whether it was the Commission's intent to require licensees to include their licensed name or whether it intends to preclude licensees from advertising and holding themselves out to the public in anything but the licensed name. The Commission replied that the purpose of the regulation is to track individual licensees in order for the prosecution to be able to deal with offenders accurately. Mr. Goldsmith suggested proposed language to clarify that advertisements, promotional pieces, business cards and verbal introductions include the licensed name/nickname. The Commission responded that they will discuss the proposal further at the September meeting once all comments have been received.

Derenda Updegrave, PAR Director of Government Affairs, addressed the Commission regarding Senate Bill 241, which was recently enacted as Act 14 of 2009. The Act will allow parties in a real estate transaction to reach an agreement in writing in advance as to how escrow money will be distributed in the event a dispute occurs. The Act also provides that associate brokers and salespersons may set up entities such as S corporations or limited liability companies (LLCs). Ms. Updegrave informed the Commission that PAR will develop education and communication pieces on the new Act. The Commission indicated that they would be developing a new form for the purposes of registering qualified associations. The Commission engaged in discussion with Ms. Updegrave as well as Mr. Goldsmith regarding the new Act and raised questions/concerns with its implementation in 60 days. The Commission indicated that 60 days is not enough time to enact a regulation, especially with the General Assembly set to adjourn for the summer. Another concern is that the Commission needs a regulation in order to charge a registration fee for the qualified association. **The Commission adopted a motion to seek an amendment to Act 14 to delay implementation until the Commission enacts a regulation.** Following the motion, the Commission continued their discussion on registering qualified associations. The Commission decided that they must proceed as though the Act will go into effect in 60 days. Therefore, they will begin accepting registration forms for qualified associations on August 10. They cautioned that brokers must not begin operation of a qualified association until they receive a registration number from the Commission.

10. The Commission discussed sharing of broker points. The Commission previously allowed the sharing of broker points but the current policy is to not share points. The Commission noted that there is no way to independently verify the data received from individuals. The Commission tabled discussion on the subject until the next meeting. Any applications received prior to a final determination on the subject will be referred to the Licensure Committee.
11. Commission Counsel indicated that Senate Bill 142 has passed the legislature and will be considered by the governor. The legislation will allow the Commission, as well as all other licensing boards, to levy up to a \$10,000 fine for violations of the Act.
12. Education and Examination Committee
 - The Commission approved the Sync Institute as a real estate education provider.
13. Rules and Regulations Committee
 - Regulation 16A-5611 (Seller Disclosure) – This regulation would establish a standard Seller Disclosure statement. The Real Estate Seller Disclosure Law provides that the Real Estate Commission shall promulgate regulations. The proposed regulation includes subjects as outlined in 7304(b). The Commission submitted this regulation to interested parties for pre-draft input with comments due April 25, 2007.
 - Most Recent Action: The regulation has remained in the office of general counsel since August 2007.
 - Regulation 16A-5613 (Education) – This regulation establishes a mandatory continuing education class for new licensees which must be completed within the first full renewal cycle. In 2005, this regulation was sent to interested parties as a pre-draft Annex. In June 2005, the Commission approved a motion to adopt the Annex and move forward with the proposed rule.
 - Most Recent Action: In October 2008, the Commission reviewed and approved the proposed outline for the 14 hour required course for new licensees.
 - Regulation 16A-5615 (Fees) – This regulation would consolidate the initial licensure fee charged to new applicants from a two-tiered structure to a one-tier structure. The consolidation of these fees will enable the Commission to participate in online initial applications for certain licensure classes since, as currently constructed, the computer system cannot accommodate a two-tiered fee structure.
 - Most Recent Action: In September 2008, this regulation was issued as pre-draft to interested parties. PAR submitted comments in favor of the regulation.
 - Regulation 16A-5619 (Property Management) – This regulation would define the term “property manager.”
 - Most Recent Action: In April 2008, the Commission discussed licensure of condominium managers, and put forward the idea of defining the term “property manager.” This regulation is still in the development stages.
 - Regulation 16A-5620 (Advertising and Solicitation) – This regulation clarifies that licensees shall advertise only under the business name issued on their real estate license.
 - Most Recent Action: On June 29, 2009, the Commission issued a pre-draft regulation for comment.
14. Next Meeting – August 4.

The foregoing represents the author's best interpretation of the significant actions and discussions of the Commission. Aside from the meeting agenda, the author receives no supporting documentation or materials in advance of the meeting, nor is the author present during any executive sessions of the Commission. Therefore, this summary may not accurately reflect official actions or positions taken. Official minutes of the proceedings may be secured by contacting the Bureau of Professional & Occupational Affairs.

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For further information, contact Jennifer Shockley, Assistant Director, Government Affairs.