



Executive Summary
State Real Estate Commission
One Penn Center
2601 North Third Street, Harrisburg
October 16, 2008

Present at the regular meeting of the Commission were: Chair Annie Hanna Cestra, Vice Chair Michael Weiss, Commissioners John McGarry, Joseph McGettigan, Gaetano Piccirilli, John Sommer, Joseph Tarantino, Alexis Barbieri (Office of Attorney General) and Mark Vessella (BPOA Deputy Commissioner). Also present were Commission Counsel Judith Pachter Schulder, Real Estate Education Administrator Katie Douglas, and Commission Administrator Patricia Ridley.

The following key discussions/actions were taken:

1. The Commission adopted the September minutes.
2. Thomas Blackburn, Esq provided the Commission an overview of the Clean Indoor Air Act and the Commission's enforcement authority under the Act. Specifically, the Real Estate Commission is provided enforcement oversight and the ability to fine individuals on three levels: failure to post no-smoking sign in real estate or cemetery company office, permitting smoking in a facility, and licensee smoking in a facility. The Commission developed proposed fines for these offenses as an Act 48 civil penalty, which will go through the normal regulatory approval process. The proposed fines are as follows:

Failure to post no-smoking sign in real estate or cemetery company office.

- First offense: warning
- Second offense within 1 year: \$250 fine
- Third offense within 1 year: \$500 fine

Permitting smoking in a facility.

- First offense: \$250 fine
- Second offense within 1 year: \$500 fine
- Third offense within 1 year: \$1,000 fine

Licensee smoking in a facility.

- First offense: \$250 fine
- Second offense within 1 year: \$500 fine
- Third offense within 1 year: \$1,000 fine

3. Report of Prosecution
 - File 03-56-01969, 07-56-03918 and 03-56-01978 – This case involves an associate broker, a broker and the broker of record who engaged in fraud and mortgage fraud. No details of the case were released during public session, except that almost all facts of the case

- are in dispute and that the matter is currently in civil litigation. Terms of the Agreement: public reprimand, \$20,000 civil penalty paid in \$750 monthly installments, and voluntary relinquishment of license for at least 5 years (salesperson); public reprimand, 14-hour broker course on supervisory duties, and \$10,000 civil penalty (broker and broker of record). Commission approved.
- File 07-56-06574 and 08-56-06541 – This case involves a salesperson who provided a key to the buyer without permission from the seller. The broker is charged with failure to supervise. Terms of Agreement: \$2,000 civil penalty (salesperson); \$1,000 civil penalty (broker). Commission approved.
 - File 07-56-12496 – This case involves a buyer’s agent who negotiated for advanced time to move a buyer’s personal belongings into the new property. The salesperson provided a key to the property to the buyers without permission from the seller. The buyers arrived at the property to find the seller still in residence. An agreement was negotiated between the buyer’s agent and the seller’s agent. The salesperson has no previous discipline with the Commission. Terms of Agreement: public reprimand and \$750 civil penalty. Commission approved.
 - File 05-56-07591, 05-56-07592, 06-56-08201, 06-56-08202, and 06-56-08578 – This case involves a broker, broker of record, and three leasing agents. The brokerage license of the property management company expired, and the leasing agents continued to practice on lapsed licenses. A total of 400 transactions were conducting during the lapsed period. In addition, the leasing agents signed leases on behalf of the broker. Terms of Agreement: public reprimand, \$10,000 civil penalty, and cease and desist order. In addition, the leasing agents are required to take a 30-hour course in real estate law, and the broker of record is required to take a 30-hour pre-brokerage course. Commission approved.
 - File 07-56-10032 and 07-56-11180 – This case involves a referral agency and the broker of record. The license of the referral agency expired, but the practice continued to conduct business. A total of 62 transactions were completed during the lapsed license period. Terms of the Agreement: \$3,100 civil penalty. Commission approved.
4. The Commission adopted an adjudication and order in the case of Donovan A. Sankey (File 06-56-07905).
 5. The Commission deferred discussion in the case of Richard G. Lengel (File 07-56-00320) until the November meeting.
 6. The Commission acknowledged receipt of an invitation to attend the Real Estate Commission/Appraiser Board forum held by the Pennsylvania Association of REALTORS® on January 26, 2009.
 7. The Commission elected officers for 2009:
 - Chair: Michael Weiss
 - Vice Chair: John McGarry
 - Secretary: Joseph Tarantino

8. Report of Deputy Commissioner
 - New Licensing Boards – With passage of Act 100 and Act 118, two new licensing boards have been established with the Bureau: the State Board of Crane Operators and the State Board of Massage Therapy.
9. Report of Education Administrator
 - The Commission reviewed and approved the proposed outline for the 14 hour required course for new licensees. The outline will be sent to real estate education providers for course development. The Commission will also produce and send a postcard to all new licensees to explain the requirements.
10. Education and Examination Committee
 - Approved the course “Zoning Administration” from Penn State University.
11. 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: In August 2007, the Commission discussed the incorporated changes in a new draft provided by counsel. The Commission adopted the regulation in proposed form. It was sent to the general counsel’s office for review.
 - Regulation 16A-5613 (Post-Licensure 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-5614 (Consumer Notice) – This regulation will streamline the current Consumer Notice to make it more “user-friendly” for both consumers and licensees. A draft copy was sent to interested parties for pre-draft input; PAR provided comments which were adopted with one exception. The Commission adopted the amended annex in March 2006.
 - Most Recent Action: In October 2008, the Independent Regulatory Review Commission (IRRC) approved the regulation. The regulation will be sent to the Office of Attorney General for approval, which is expected within 30 days. After publication in *The Pennsylvania Bulletin*, the regulation will be final.
 - 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.
12. The Commission briefly mentioned that the reciprocal agreement with Oklahoma will be terminated starting November 1 due to changes in the Oklahoma law that are not consistent with Pennsylvania.
13. Next Meeting – November 18-19, 2008.

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.

Document Date: October 17, 2008.

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