



**Executive Summary**  
**State Real Estate Commission**  
**2601 North Third Street**  
**Harrisburg**  
**October 13, 2009**

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

The following key discussions/actions were taken:

1. Report of Prosecution
  - File 08-56-04833 and 08-56-04834 – This case is against a cemetery broker and cemetery company. The cemetery broker practiced on a lapsed license and sold 71 burial lots during the time span. Terms of the Agreement: \$1,420 civil penalty to be paid jointly by the broker and company. Commission approved.
  - File 06-56-06895 – This case involves a criminal conviction for fraud. The respondent was found guilty on a number of counts and is currently incarcerated. Terms of the Agreement: immediate and indefinite suspension for no less than 5 years. Prosecution noted that the Agreement does not include a monetary component as the respondent will be paying back nearly \$1 million as a result of the criminal conviction. Commission approved.
  - File 05-56-08868 – This case involves a broker who was acting as a settlement agent in the sale of a VA property. During settlement, the respondent collected monies for various payoffs that were due in connection with the property, however the respondent did not remit payment to the agencies. Terms of the Agreement: \$1,000 civil penalty, suspension of broker's license for no less than 2 years, and a 30 hour real estate law course. Commission denied as too lenient.
  - File 08-56-11559 – This case is a continuing education violation. The respondent, who was randomly audited, was found to have not completed all 14 hours of continuing education. Terms of the Agreement: \$1,400 civil penalty and reprimand. Commission approved.
  
2. The Commission discussed the current balance of the Real Estate Recovery Fund and any expected payouts. Prosecution indicated that in 2008-2009, the Fund paid out one claim and had a closing balance of \$425,000. However, there are multiple cases pending which could produce a potential payout of \$115,000 from the Fund. The Commission noted that, by law, the Fund cannot fall below \$300,000. If the Fund falls below the prescribed amount, the Commission can assess licensees up to \$10/licensee to restore the Fund. Prosecution

indicated they should have a better idea of which claims will be moving forward by March 2010.

3. The Commission denied the request for oral argument in the case of Mark David Frankel (File 04-56-05457).
4. The Commission adopted the hearing examiner's report in the case of Michelle E. Vonnieda (File 05-56-09212) and Michelle E. Vonnieda (File 07-56-08414).
5. The Commission deemed facts admitted and authorized counsel to draft an adjudication and order in the case of Jessica Rojas (File 07-56-11054) and Nelly Alcantara (File 08-56-10872).
6. Education and Examination Committee
  - The Commission denied the course "Today's Top RE Technology Trends" for continuing education.
7. 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-5616 (Advertising and Solicitation) – This regulation clarifies that licensees shall advertise only under the business name issued on their real estate license.
    - Most Recent Action: In September, the Commission discussed all comments as submitted for pre-draft input. In October, the Commission further discussed specific comments in order to approve language at the November meeting. (See #8 below for details of discussion.)

- 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.

8. The Commission discussed Regulation 16A-5616 (Advertising and Solicitation). The regulation states that “licensees shall advertise or otherwise hold themselves out to the public only under the name listed on their license.”

Comments were discussed in detail during the September meeting, and counsel indicated that they fell into five general groups:

1. Licensees shall include the name listed on their license when advertising and when identifying themselves in the course of conducting licensed activity. (PAR suggestion)
2. Licensees should be allowed to use a derivative of their first name only.
3. Licensees should be allowed to use a derivative of their first and middle names.
4. Licensees with non-Anglo names should be allowed to use an Anglo derivative closest to their non-Anglo name.
5. Licensees should be allowed to use more than one nickname.

The Commission engaged in a lengthy discussion and adopted a motion for similar language as follows: “licensees shall advertise or otherwise hold themselves out to the public under the name listed on their license or a derivative of their first or middle name. Licensees who hold themselves out to the public by a name other than the one listed on their license or a derivative of their first or middle name must include a license number on the advertisement.”

Counsel will draft language for Commission approval at the November meeting.

9. The Commission discussed whether a qualified association must consist of more than one licensee. Counsel stated that the new law refers to “licensees” (plural) which indicates that the intent of the legislature was that a qualified association shall consist of more than one licensee. However, the Q&A as composed by PAR and available on its website indicates that a single individual may be the sole licensee in a qualified association. In further reading the law, the Commission expressed its opinion that a qualified association must consist of more than one licensee. Counsel noted that a letter will be sent to all individuals who sent in a qualified association application.
10. Election of 2010 Officers
  - Chair: Joe Tarantino
  - Vice-Chair: Jeff Johnson
  - Secretary: Joe McGettigan
11. Next Meeting – November 10, 2009.

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.