



MAURA HEALEY
GOVERNOR

KIM DRISCOLL
LIEUTENANT GOVERNOR

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Commonwealth of Massachusetts
Division of Occupational Licensure
Board of Registration of Real Estate Brokers
and Salespersons

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REGULATION

SARAH R. WILKINSON
COMMISSIONER, DIVISION OF
OCCUPATIONAL LICENSURE

April 19, 2023

Public Minutes

Members in attendance:

Peter Ruffini, Chairman

Linda Kody, Member

Cliff Ponte, Member

Administrative Staff in attendance:

Jenna Hentoff, Board Counsel

Kristin Mitchell, Executive Director

Colleen Cavanaugh, Associate Executive Director

Call to Order – Peter Ruffini opened the meeting at 10:05 a.m.

Vote on Minutes:

March 17, 2023 Public minutes

Updated November 22, 2022 Public minutes

A motion was made by Cliff Ponte and seconded by Linda Kody to approve the minutes as drafted and presented.

Voted: To unanimously approve the public minutes listed above as presented.

Executive Director Report

Kristin Mitchell informed the Board of the following information:

Since our last meeting (3/17/23), the Board has received 335 applications for exam.

Since our last meeting, the Board has issued 398 licenses:



- 292 Salesperson by exam
- 35 Broker by exam
- 24 Businesses
 - 11 Attorney Brokers
 - 23 Reciprocal Salespersons
 - 11 Reciprocal Brokers
 - 2 Schools

Kristin Mitchell asked if a Board member was available to attend a hearing scheduled for August 31st. Linda Kody will attend.

Kristin Mitchell asked the Board to pick a new date for the September Board meeting. The Board chose September 15, 2023.

Kristin Mitchell reminded the Board and the public that resumes and cover letters for the Education Subcommittee are due by April 30, 2023 for Board review and discussion at the May Board meeting.

Board Counsel Report

Jenna Hentoff updated the Board on the matter of Huang vs. Ma in which a decision was issued by the Supreme Judicial Court ("SJC") on February 2, 2023. As a matter of first impression, the SJC held that recovery of expectation damages for breach of an exclusive real estate broker agreement does not require that there be a clear statement in the contract that the broker be entitled to receive a commission regardless of whether they played a role in effecting a sale or purchase.

Application Review

Sandra Carroll – When asked why she does not hold a broker's license, Ms. Carroll stated she was unable to obtain a broker's license as it is considered to be a conflict to hold an active real estate license with her job as the CEO of the Berkshire County Board of Realtors. She previously took the broker class and practice tests but did not obtain the license. She feels the exemption was made for her situation. Ms. Carroll stated that she assists more than 750 real estate agents on broker issues, including confidential matters, license law, and industry issues in addition to handling disputes between agents which would create a conflict if she held an active broker license. She further stated that she hires instructors for the school, oversees the curriculum and teaches in areas where she is considered an expert.

A motion was made by Cliff Ponte and seconded by Linda Kody:

To allow the request for exemption of the instructor certificate

Roll call vote.

In favor: Linda Kody, Cliff Ponte, Peter Ruffini

Sindra Ellison – When asked why she does not hold a broker's license, Ms. Ellison stated that she wasn't aware that she needed to be a broker in order to be a real estate instructor. She decided to come back before the Board once she has a broker's license.

Ms. Ellison withdrew her application.

Mildred Potter - When asked why she does not hold a broker's license, Ms. Potter stated that because she is a licensed mortgage loan officer, she cannot hold a real estate brokers license. She only wants to teach lending courses. Ms. Potter was informed that she can still teach as an expert in the presence of a Board approved instructor.

A motion was made by Linda Kody and seconded by Cliff Ponte:

To deny the request for exemption of the instructor certificate

Roll call vote.

In favor: Linda Kody, Cliff Ponte, Peter Ruffini

Mary Tavolieri McMahon – When asked why she does not hold a broker's license, Ms. Tavolieri McMahon stated she never had the need or felt it was necessary to hold a broker's license. In her office, she was responsible for all the things a broker would do except the holding of funds in an escrow account. She stated that she is a former educator and wanted to get back into teaching.

A motion was made by Cliff Ponte and seconded by Linda Kody:

To deny the request for exemption of the instructor certificate

The Board held further discussion, noting that they have previously denied an exemption for individuals who did not hold a broker's license despite having an education background.

Roll call vote.

In favor: Linda Kody, Cliff Ponte, Peter Ruffini

Rosina Ciccone – reciprocal broker– Ms. Ciccone appeared in connection with her application for a reciprocal broker license. On her application, she disclosed professional discipline against her NC license. She entered into a consent agreement in 2010. In the agreement, her NC license was suspended for 3 months but she was granted a reprimand if she paid a fine to the owners of the property and wrote a letter of apology to her former broker, which she did. She informed the Board that the basis for the discipline was due to her use of a couple of property

listings for improper purposes. She stated that this is the only discipline ever brought against her and she is licensed in three other jurisdictions.

A motion was made by Linda Kody and seconded by Cliff Ponte:

To allow her to move forward in the licensing process

Roll call vote.

In favor: Linda Kody, Cliff Ponte, Peter Ruffini

Daniel Corbett – reinstatement – Jenna Hentoff left the meeting due to a conflict with the review of this individual's reinstatement application. Peter Kelly was covering counsel. Mr. Corbett's salesperson license was previously revoked by the Board pursuant to a Final Decision and Order, issued on August 6, 2020. He did not attend the adjudicatory hearing held in the matter despite proper notice. In the decision, the Board found that Mr. Corbett was practicing real estate without a license. His attorney asked to table review of Mr. Corbett's reinstatement application until he could submit a public records request to obtain information on the original allegations against him.

A motion was made by Linda Kody and seconded by Cliff Ponte:

To table until the May or June Board meeting, depending on Mr. Corbett's attorney's receipt of documents pursuant to a public records request

Roll call vote.

In favor: Linda Kody, Cliff Ponte, Peter Ruffini

Discussion

Timeshare scam notice

Kristin Mitchell and Jenna Hentoff notified the Board members of an ongoing scam involving timeshares. Individuals are approaching owners of timeshares purporting to assist in the sale of their timeshares while pretending to be MA licensees. The Office of Investigations have received complaints related to this and have confirmed that in most cases, the actual licensees are not the individuals involved. After discussion, the Board directed staff to put a notice on the website and make sure the Attorney General's office is aware of this.

Email regarding salesperson commission

The Board reviewed an email correspondence which asked whether brokers are allowed to pay a commission to a salesperson who has left the business and is no longer affiliated with a broker. After discussion, the Board stated that if the

individual was licensed and affiliated when the transaction occurred, then the commission was earned and the individual should be paid unless a contract between the individual and company states differently.

Regulation Review

The Board reviewed the current draft regulations. The Board members discussed permitting continuing education courses to be taught at locations other than the real estate school's authorized location(s), such as at a real estate business office, as long as they were offered by an approved school. Counsel will work on proposed language to incorporate this in the regulations.

The Board also wanted to clarify language in the agency disclosure regulation to require a disclosure form to be provided when "any contract" is signed to avoid any possible loopholes.

The draft regulations will be discussed further at the May meeting.

Office of Investigation Inventory List

A motion was made by Linda Kody and seconded by Cliff Ponte:

To table until the June meeting

Roll call vote.

In favor: Linda Kody, Cliff Ponte, Peter Ruffini

Matters Not Anticipated by the Board

Nothing to report.

At 12:06 p.m., a motion was made by Cliff Ponte and seconded by Linda Kody and it was so

Voted: To exit Open session and enter Executive Session pursuant to M.G.L. c. 30A, §21(a)(1) to discuss individuals' character, rather than competence

Roll call vote. In favor: Cliff Ponte, Linda Kody, Peter Ruffini

At 1:44 p.m., the Board exited Executive Session and entered Closed Session pursuant to G.L. c. 30A, § 18, ¶ 5(d) and G.L. c. 112, § 65C for the purposes of conducting adjudicatory, settlement and investigatory conferences.

During closed session, the Board took the following actions:

2022-000794-IT-ENF- dismiss

2022-000836-IT-ENF- dismiss

2022-000945-IT-ENF- dismiss
2022-000953-IT-ENF- refer to Prosecutions
2022-000965-IT-ENF- dismiss
2022-001013-IT-ENF- refer to Prosecutions
2022-001027-IT-ENF- refer to Prosecutions
2022-001059-IT-ENF- dismiss
2022-001077-IT-ENF- dismiss
2022-001085-IT-ENF- dismiss
2022-001099-IT-ENF- dismiss
2022-001101-IT-ENF- dismiss
2022-001107-IT-ENF- dismiss
2022-001127-IT-ENF- dismiss
2022-001128-IT-ENF- refer to Prosecutions
2022-001129-IT-ENF- refer to Prosecutions
2022-001134-IT-ENF- dismiss
2022-001147-IT-ENF- invite in Respondent
2022-001148-IT-ENF- invite in Respondent
2023-000010-IT-ENF- invite in Respondent

At 4:37p.m., a motion was made by Linda Kody and seconded by Cliff Ponte and after roll call it was so

Voted: To exit closed session and enter open session for the purpose of adjourning the meeting

In favor: Cliff Ponte, Linda Kody, Peter Ruffini

Respectfully Submitted by:


Kristin Mitchell, Executive Director


Date

List of documents used during the Public Meeting:

- April 19, 2023 meeting agenda
 - March 17, 2023 Public minutes
 - Updated November 22, 2022 minutes
 - Sandra Carroll– instructor application documents
 - Sindra Ellison – instructor application documents
 - Mildred Potter – instructor application documents
 - Mary Tavolieri McMahon – instructor application documents
 - Rosina Ciccone – reinstatement application documents
 - Daniel Corbett – reinstatement application documents
 - Email correspondence re: salesperson commission
 - Draft regulations, sections 2.00, 3.00, 4.00, 5.00 and 7.00
 - Real estate inventory form
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