

## MINUTES OF MEETING

### Kansas Real Estate Commission

May 9, 2013

The Kansas Real Estate Commission held its regular meeting on Thursday, May 9, 2013 at 9:00 a.m. by telephone conference call at Three Townsite Plaza, Suite 200, 120 S.E. 6<sup>th</sup> Avenue, Topeka, Kansas.

**Commissioners Present:**

Tim Holt, Vice Chair  
Marilyn Bittenbender, Member  
Errol Wuertz, Member  
Shirley Cook, Member

**Staff Present:**

Sherry Diel, Executive Director  
Kelly White, Director of Licensing & Education  
David Pierce, Director of Enforcement  
Alexandra Blasi, Attorney  
Laurel Lowrie, Legal Assistant

**Kansas Real Estate Commission Legal Counsel Present:**

Sarah Fertig, Assistant Attorney General

**Members of the Public Present:**

Kylie Wiser Stock  
Brendan Murphy  
George Gilchrist  
Brian Stephens  
Perry Trout

**Call to Order**

Mr. Holt called the meeting to order at 9:19 a.m.

**Additions to the Agenda**

Item No. 4A – Executive session to discuss personnel matters was added to the Agenda. Item 9A – Consider staff request to reschedule the August and September Commission meeting was added to the Agenda.

At 9:21 a.m. Mr. Holt recessed the KOMA meeting in order to address the scheduled KAPA proceedings.

**Conference Hearing *In the Matter of Kylie Wiser Stock*, Docket No 4239.**

A formal hearing *In the Matter of Kylie Wiser Stock*, Docket No. 4239 regarding the denial of her application for a broker's license pursuant to K.S.A. 58-3039(d)(1), (e) and (g) and K.S.A. 58-3043(a)(4), (a)(5) and (b) was held.

**Conference Hearing *In the Matter of Brian Stephens*, Docket No 4230.**

A conference hearing *In the Matter of Brian Stephens*, Docket No. 4230 regarding the denial of his application for a broker's license pursuant to K.S.A. 58-3039(d)(1) and (e) was held.

Mr. Holt concluded the hearings at 10:50 a.m.

**Reconvene KOMA Meeting**

Mr. Holt reconvened the KOMA Meeting at 11:34 a.m.

After review and discussion *In the Matter of Kylie Wiser Stock*, Docket No. 4239, motion was made Ms. Bittenbender, seconded by Ms. Cook to approve Ms. Stock's application for a broker's license on a conditioned and restricted basis to require Applicant's Cosentino office shall be established as a branch office under the supervision of Applicant's supervising broker, George Gilchrist; such branch office shall be established in the name of one of the following registered companies owned by Mr. Gilchrist: (i) George G. Gilchrist; or (ii) Gilchrist & Associates, Inc.; if Applicant fails to comply with the conditions listed above, her application for licensure as a real estate broker shall be denied; Applicant shall be restricted to working under her current supervising broker, George Gilchrist, and to affiliating only with the branch office operating out of Applicant's Cosentino office for a period of two years and such restriction shall lift automatically after two years; Applicant shall not be a supervising broker or branch broker for any associated or employed salespersons or associate brokers and such restriction shall not be lifted for a minimum of two years and shall run indefinitely until Applicant submits a written request to the Commission with relevant evidence of current competency to function as a supervising broker; and Applicant must disclose, in writing in the contract, her ownership interest in S&S Holding Company in all real estate sales and commercial lease transactions. Motion carried unanimously.

After review and discussion *In the Matter of Brian Stephens*, Docket No. 4230, motion was made Mr. Wuertz, seconded by Ms. Bittenbender to approve Mr. Stephens' application for a broker's license subject to the following conditions and restrictions: Applicant shall successfully complete a required broker core course on the topic of management, as described in K.A.R. 86-1-11(e)(4)(iii); a required broker core course on the topic of common violations of the real estate brokers' and salespersons' license act and the brokerage relationships in real estate transactions act, as described in K.A.R. 86-1-11 (e)(4)(iv); the course topics above shall consist of at least three (3) combined hours of instruction. Applicant may successfully complete one or more required broker core courses in order to attain at least three (3) combined hours of instruction on the topics listed above; the courses shall not count toward Applicant's continuing education requirement; Applicant shall submit proof to the Commission of successful completion of the courses within 90 days; if Applicant fails to comply with the conditions listed above, his application for licensure as a real estate broker shall be denied; Applicant shall not be a supervising broker or branch broker for any associated or employed salespersons or associate brokers. This restriction is imposed indefinitely and if Applicant wishes to have the above restriction lifted, he must submit a written request to the Commission. Motion carried unanimously.

### **Applications for Salesperson's License**

#### **Andres Montoya**

Applicant failed to disclose the prior denial of his application for a Kansas real estate broker's license and made inconsistent statements on his current and previous applications for licensure. Applicant also allowed his prior salesperson's license to expire while a request for hearing on a revocation order was pending. After review and discussion regarding Applicant's pattern and practice of misrepresentation and prior pending discipline, motion was made by Mr. Wuertz, seconded by Mr. Holt to deny Applicant's application for a salesperson's license. Motion carried unanimously.

#### **Chelsie Cole**

Applicant answered "Yes" to Question No. 6 on her application and self-reported a diversion for a felony criminal offense. After review and discussion regarding the circumstances surrounding the offense; the nature and severity of the conduct and the level of supervision that would be required to protect the public trust, motion was made by Ms. Bittenbender, seconded by Mr. Wuertz to deny Applicant's application for a salesperson's license. Motion carried unanimously.

#### **Paul Cox**

Applicant answered "Yes" to Question Nos. 5 & 6 on his application and self-reported two suspended impositions of sentence for criminal offenses. After review and discussion regarding the circumstances surrounding the offenses, the nature and severity of the conduct, the passage of time and Applicant's lack of additional criminal conduct, motion was made by Ms. Bittenbender, seconded by Ms. Cook to approve Applicant's application for a salesperson's license. Motion carried unanimously.

#### **Jessica Krok**

Applicant answered "Yes" to Question Nos. 5 & 6 on her application and self-reported a deferred judgment for a criminal offense. After review and discussion regarding the circumstances surrounding the offenses and the nature and severity of the conduct, motion was made by Ms. Bittenbender, seconded by Ms. Cook to approve Applicant's application for a salesperson's license restricted to supervision by her proposed supervising broker. Such restriction shall run indefinitely until Applicant submits a written request to the Commission with evidence of her current reputation for honesty, integrity, trustworthiness and competency. Motion carried unanimously.

#### **Tyler Smith**

Applicant answered "Yes" to Question No. 6 on his application and self-reported a diversion for criminal offenses. After review and discussion regarding the circumstances surrounding the conduct, the nature and severity of the offenses, the passage of time and Applicant's lack of additional criminal conduct, motion was made by Mr. Wuertz, seconded by Ms. Bittenbender to approve Applicant's application for a salesperson's license. Motion carried unanimously.

#### **Perry Trout**

The application of Mr. Trout was presented for review by the Commission. After review and discussion regarding Mr. Trout's transaction experience, related experience and education, motion was made by Ms. Bittenbender, seconded by Mr. Wuertz, to approve Mr. Trout's application for a broker's license. Motion carried unanimously.

**Consider request of Larry Riggs to open a company named Kansasland Realty and Auction (Tabled from the April 11, 2013).**

After review and discussion, motion was made by Ms. Bittenbender, seconded by Mr. Wuertz to approve Mr. Riggs' request with a 120-day transition period imposed for handling pending transactions, closing the old company, opening the new company in the Commission's records, and commencing real estate business under the new company name. Motion carried unanimously.

**Consider request of Dustin Sharp to lift the restriction on his salesperson's license**

After review and discussion, motion was made by Ms. Bittenbender, seconded by Ms. Cook to approve Mr. Sharp's request.

At 12:25 p.m. Mr. Holt declared a recess for lunch. Mr. Holt reconvened the meeting at 12:50 p.m.

**2013 Legislative Report**

Ms. Diel reported that since HB 2122-KREC Technical Amendment failed to pass this session, staff will prepare a letter to education providers to address the options for approval of certain continuing education courses.

Ms. Diel reported that cuts to the audit program will become effective July 1 due to budget cuts. Ms. Diel reviewed the components of the Audit By Mail Program. Ms. Diel and Ms. Blasi will review regulations needed to address application issues caused by the passage of HB 2078-Military Licensing. Ms. Diel reported that additional information regarding the budget was not yet available.

Ms. Diel reported that at the suggestion of Ms. Blasi the Commission purchased KanFocus. The subscription includes bill tracking, live audio feeds of the House and Senate, committee minutes and access to case law.

**Staff Report on I-Team Statistics**

Ms. Blasi presented the I-Team Statistics to the Commissioners. Audits orders are current through January 2013 with a goal to have audits current at the end of the fiscal year.

**Education Report**

The Education Report was received by the Commissioners. Ms. Diel reported that Pearson VUE experienced problems with their testing system during an upgrade. Some test centers were unable to offer testing services on April 24 or experienced delays. The upgrade also caused reservation delays over approximately a 7-10 day period. The event caused a backlog which may have affected Kansas applicants. Pearson VUE will provide a list of candidates that could not test on April 24. For those candidates who were delayed on April 24 but decided to test, the test scores will stand and no extension will be granted. The Commission directed Ms. Diel to provide an extension for any applicant that could not test on April 24 or anyone that could not register timely for an exam during the backlog dates specified by Pearson VUE. The extension shall be 45 days from the course expiration date or from April 24<sup>th</sup> whichever is longer.

### **Director's Report**

The Commissioners received the Director's report and Ms. Diel noted that there are currently 13,658 licensees.

Ms. Diel reported that Washington State has issued guidelines for internet and social media. The Commissioners asked that staff work on preparing similar guidelines for Commission review.

Ms. Diel noted that Ms. Blasi drafted a newsletter that was sent to all licensees this month.

The Commissioners discussed the meeting schedule for the remainder of the year and set the following schedule: August 22 in Topeka; September no meeting; October 10 by telephone; November 14 in Topeka; December 12 by telephone and January 9 by telephone. The remainder of FY 2014 will alternate between two meetings by telephone and one meeting in person due to budget constraints.

Ms. Fertig left the meeting at 1:34 p.m.

### **Executive-Session**

At 1:37 p.m. motion was made by Ms. Bittenbender, seconded by Mr. Wuertz to enter into an executive-session for 10 minutes to discuss a personnel matter. Motion carried unanimously. Ms. Diel and the Commissioners were present for the executive-session.

Mr. Holt reconvened the meeting at 1:48 p.m.

### **Budget Report**

Ms. Diel informed the Commissioners that she received a memo from the Department of Administration that agencies will not need to reconcile receipts each day to the Treasurer due to issues with the SMART system.

The Budget Report was presented including Expenditures and Real Estate Receipts as of April 2013.

KREC's fee fund balance is \$342,314. The available cash balance is \$301,714 which is the Commission's current fee fund balance less encumbrances. Ms. Diel noted we are 83% through the year and expenditures are at 76%

KREC has transferred 10% of receipts to the State General Fund from July 2012 – April 2013 or \$70,300 and kept 90% or \$633,300 for the KREC fee fund for the current fiscal year.

KREC collected \$87,300 in fines for FY 2013 for the State General Fund. The Revolving Recovery Fund balance is \$309,000.

In April 66 brokers and 126 salespersons renewed online

The Commissioners discussed the use of the hospitality fund and lunch expenses for FY 2014 and decided to use the hospitality fund for the annual Commissioner Appreciation luncheon, to suspend providing treats for meetings and for each Commissioner to deposit \$50 in petty cash for lunches. Staff will advise Commissioners when each lunch balance needs to be replenished.

**Public Comment**

There was no public comment.

**Adjournment**

Mr. Holt adjourned the meeting at 2:10 p.m.

ATTEST:

Date: June 13, 2013