



# GUAM REAL ESTATE COMMISSION

• CHRISTOPHER MURPHY (Chairman) • ALICE SEBASTIAN-CRUZ • ODESSA MARTINEZ • RICHARD GUTIERREZ •  
• RAMON PUANGCO • FRANK PANGELINAN • RYAN MARSIL JOHNSON

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## MINUTES OF MEETING

Date: Thursday, January 23, 2020

Time: 2:00 PM

Place: DRT Director's Conference Room

Present: Michele Santos, DRT Deputy Director  
Christopher Murphy, Chair  
Alice Sebastian-Cruz, Commission Secretary  
Odessa Martinez, Commission Member  
Richard Gutierrez, Commission Member  
Frank Pangelinan, Commission Member

Also Present: Nemencio David E. Briones, Regulatory Examiner II  
Roxanne Simpkins-Williams, Guam Memorial Park, Owner

1. Call to Order: The Chair called the meeting to order at 2:03 pm

The meeting met the public law requirement of 5GCA §8107 with publications five (5) days and 48 hours prior, January 16<sup>th</sup> and 21<sup>st</sup> 2020, respectively in the Pacific Daily News.

The Chair have acknowledged the presence of Michele B. Santos, Alice Cruz, Frank Pangelinan, and Odessa Martinez. Richard Gutierrez joined the meeting at 2:11pm.

2. Approval of minutes of the meeting:

The approval of minutes of the meeting held on November 2019, was postponed due to non-availability of copy of the minutes. To be approved along with January 23, 2020 meeting.

3. New Business

a. Proposed requirements for prospective instructors for real estate pre-licensing courses. The Chair asked Ms. Cruz to give an overview of proposed requirements that feels appropriate. Ms. Cruz explained that requirements for individual who wants to apply as an instructor of real estate were gathered from other jurisdictions' requirements since Guam does not have one in place yet. It was presented to the Deputy Director for review and approval After the Deputy Director approved the requirements, Ms. Cruz gave it to Ms. Munoz with clear understanding that there will



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be more requirements in the succeeding applications for anyone who aspire to teach pre-licensing courses in real estate.

Mr. Frank Pangelinan suggested commercial area/space and not residential area to hold the teaching business. Everyone agreed.

Mr. Pangelinan also asked if word "Alien" on C. 9. on page 2 of the proposed requirements has to be changed. The Chair and the Deputy proposed to change it to a "US Citizen" or a "Resident Green Card Holder."

b. Christopher Salas case against Empire Realty. The Chair went over the complaint and supporting documents from complainant, Ms. Shiyrani Daryanani, principal broker and owner of Empire Realty. The complaint is against her former salesperson, Mr. Christopher Salas, who allegedly engaged in misrepresentation, dual agency comingling, taking undisclosed compensation and fraudulent and dishonest dealings.

The Chair discussed the first complaint regarding a rental agreement handled by Mr. Salas. While employed by Empire Realty, Mr. Salas assisted the owner of an apartment (unit 201) to be rented and apparently used all of Empire Realty's documentation, forms, and Empire Realty's receipts. The Chair explained he basically signed on behalf of the owner and did the rental agreement. He did not run it through Empire Realty he went directly to the owner. At this point in time Empire Realty never had the funds and doesn't know where the funds are; if he kept it or just gave it all to the owner. The bottom line on this was he is acting on his own recourse with the company property representing it but not going through the company.

The second issue was the situation where Empire Realty had listing on two vacant lots and Mr. Salas obtained listing agreement for those two lots from the owner of the properties and they agreed upon a 10% commission and subsequently Mr. Salas listed it within the MLS system and in commission portion of MLS system indicated that the commission is 8% to be split fifty-fifty. Upon closing it was learned that the affidavit of true consideration showed there was a 10% commission paid, but 6% of that went to Empire Realty and 4% went to selling agent's company. In this instance the broker was made aware of it and they immediately cut a check for 1% of the commission to the selling agent to make it fifty-fifty split. On this issue, once again Mr. Salas misrepresented the true commission and how it would have been divided.

The third issue involved a rental agreement with Ms. Odessa's company, Pacific Rim Management, where Ms. Odessa's sales agent worked with Mr. Salas. They put the tenant in the unit and got



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\$1,300 commission and then Pacific Rim Management cut half of that commission to Empire Realty. Mr. Salas picked up the check and deposit it on his mobile phone and endorsed it to himself. Mr. Murphy said that this action is commingling and theft. Subsequent to that, he was confronted and he apparently admitted on one of his text messages or face book messages that he had the money and he wants to give it back. Mr. Murphy explained that bring us to two questions one is dishonesty and two how the Bank of Hawaii was able to allow that to be deposited in his personal account. Mr. Salas endorsed the check payable to him.

The other issue according to Mr. Murphy was the land transaction when Mr. Salas was at Empire Realty, he sold the piece of property for \$250,000 and during that period of time he subsequently transferred his license from Empire Realty to Vera Wu's company. During escrow the provided documentation of the title company transferred the funds from Empire Realty to Vera Wu's company. Security Title did it and the problem with this is on the documentation he is the one who is authorizing the transfer and he has no authorization to transfer as an agent only the principal broker is authorized. There is also a question whether or not if he forged or altered the transferred documents that he prepared for Guam Association of Realtors. The bottom line is Ms. Shivrani caught this in the last minutes and she called up Security Title and they put stop payment on commission check. Right now, the funds are sitting in Security Title's account and they cannot do anything until they can get authorization from both Vera Wu and Ms. Shivrani where to put the money. Mr. Murphy stated once again that this demonstrate his character in terms of altering documents. Once again, the third-party Security Title now has to come in to question in term of why they allowed the agent to tell them what to do with funds that already in escrow. There are two things to do either we resolve it by getting the two parties involved which are the two brokers or just they going to leave it in court and people can fight over it in court. The Chair stated that the Commission's stand is to leave it in court. Ms. Odessa asked if Mr. Salas is licensed right now and Mrs. Cruz replied that he is not licensed. Mr. Murphy said that technically Mr. Salas is not licensed with anyone right now. Mr. Murphy asked if there is any questions or comments from anyone. Mr. Pangelinan commented on transferred from one real estate company to another. Their transferred documents would have caught by Guam Association of Realtor there was no transfer of listing. They had two listing while he was with Empire when he moved, the Empire did not authorize the transfer of those listing. Ms. Odessa said Mr. Salas was trying to justify it through its listing which you can't do and should not do, but it was his justification. Mr. Murphy said that Mr. Salas acted without approval of his broker. The Chair stated the bottom line right now is Ms. Shivrani is out \$850 from the first item commission, \$650 from the transaction of Ms. Vera's office and the commission on the land sale which tied up in escrow.



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The Chair recommended to Deputy Director that Mr. Salas license be suspended immediately and permanent revocation of the license upon proper governmental process is done. A motion to approve the recommendation was made by the Chair and seconded by Mr. Pangelinan. The motion was carried by the majority except for Ms. Odessa who did not render her vote on the matter.

The Chair stated the next motion is to contact Mr. Salas and have him immediately refund the \$650 that he commingled from the rental transaction with Pacific Rim Management. In the event he doesn't want to pay, we have to send it to the AG's office. The motion was seconded by Mr. Pangelinan. The motion unanimously approved.

The next motion is to have the Chairman write a letter to Mr. Salas indicating that the \$850 that he did in the other rental transaction be reimbursed to Empire Realty. Mr. Gutierrez seconded.

The last motion is with respect to Title Company to have the Chairman write a letter to both brokers requesting that they sign off, acknowledging that the fund should be redirected back to Empire Realty. The motion seconded by Mr. Pangelinan.

c. Memorandum regarding RE licensee's place of business & office signage/ memorandum regarding application of pre-licensing earned hours to continuing education on license renewal. Ms. Cruz explained that the requirement on signage at place of business has been in real estate law for 20 years. Ms. Cruz and the Commission agreed that the signage must show the name of corporate broker, its principal broker, and their contact information. The signage size must be 20 by 40. Mr. Pangelinan asked if broker's telephone number can be added on the signage. Ms. Cruz replied fortunately they can add it on the revision of the law that they are working on. Mr. Murphy mentioned that a lot of brokers are practicing without a signage at their place of business. Mr. Murphy also mentioned that they should require it to brokers working at their houses as their place of business

d. The members of the commission are requesting to have the commission meeting every two (2) months so the commission could accumulate enough subject to talk about for every other month. If there is something emergency the Chair can call for special meeting. Mr. Pangelinan recommended to have the meeting every 2<sup>nd</sup> Tuesday of every other month. March 10<sup>th</sup> will be the next meeting. The motion seconded by Mr. Pangelinan. The motion passed unanimously.

e. Issue on having a principal broker employed by the Corporate Broker but licensed as either independent broker or broker under another Principal or Corporate Broker. The Chair explained that it's been an issue even one time he had it. The whole premise behind it is you should have one master. A principal broker shouldn't be getting into conflict of interests or representing more than one real estate company. Mr. Murphy explained it make sense for a principal broker either a



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corporate person or an individual broker, that can only represent one company at a time. Mr. Pangelinan asked if a principal broker can be an agent of a company as a salesperson. Ms. Cruz said unfortunately our office do not allow an individua having two licenses, a salesperson and a broker at the same time. In real estate law a salesperson must have 2-year experience before he can apply as a broker.

Ms. Simpskins-Williams inquired as to the reason why a broker is required for cemeterial lot sales. Ms. Cruz explained the need of a Broker to authorize payment of commissions when salespersons conduct lot sales. Because of the fact that the business of cemeterial is little different, the broker representing the cemeterial business is exempted from having two licenses. The Chair mentioned that they will address the issue on cemeterial broker to exclude them. The Commission will push ahead to get the law amended to reflect one license per person and make an exemption on behalf of cemeterial business. Mr. Murphy moved to provide the appropriate verbiage to amend to allow only one license per person or entity at a time of license on Guam. The motion seconded by Ms. Odessa. The motion passed unanimously.

Mr. Murphy also made the motion to consider an exemption to that rule for cemeterial brokerage. Mr. Pangelinan asked to recuse himself because one of his salespersons. Ms. Odessa seconded.

#### 4. Old Business

Mr. Murphy asked Mr. Gutierrez to give an update on his research about cemeterial laws of two (2) States that he is working on. Mr. Gutierrez discussed part of California and Hawaii laws. He talked to Mr. Greg Sembrano from Department of Commerce in Hawaii on line about cemetery salesperson's requirements for Hawaii. He stated that in Hawaii has Cemeterial Authority License and Pre-Need Funeral Authority License. They do not have Cemetery Broker's License. California has the following licenses: funeral director, embalmer, apprentice, cemetery manager, cemetery broker, cemetery salesperson, crematory license, crematory manager, and they all have to take test to obtain license. California is the only State that does that. Mr. Gutierrez added that their requirement for cemeterial broker must have two-year experience working as cemetery salesperson. If applicant do not have experience, they can submit a petition outlining detail of 2-year cemeterial general experience. consumers. A trust account for cemeterial business is also required by California.

Ms. Simpskins-Williams stated she have not touched her perpetual care in 35 years she's working here. She is working on building it, because as the years go by sales eventually going to drop. Ms. Simpskins-Williams also stated that their company has three (3) trust accounts. One is perpetual care trust that is for the maintenance of the grounds. The other one is item's trust that is for the markers and flower bases that is trusted. The other trust is for casket and service pre-need plan that is for escrow.



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- a. Seller Disclosure Statement Law Proposal – Mr. Murphy stated that the Commission have been going back and forth with GAR on this. As suggested by the Chair, members of Commission and the Deputy Director reviewed the updated Seller Disclosure Statement Law and agreed to change few languages on pages 5, 7, 9, 10,13, and 14 to modify it before sending it to the senator's office.
  
- b. Pending case of Mr. Hsiao Yu. Mr. Murphy needs to contact Scott Campbell to return commission on the 2<sup>nd</sup> property of Mr. Yu. Mr. Murphy thinks it is better to do it through AG's office so Attorney can write a letter.

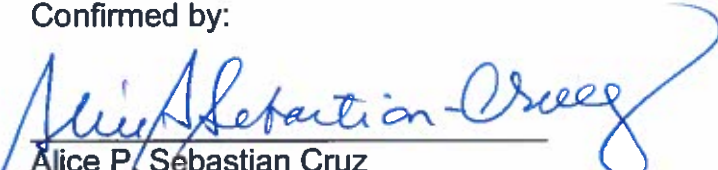
Upcoming meeting dates will be held every other month on the 2<sup>nd</sup> Tuesday.

6. Adjournment – Motion to adjourn by Ms. Cruz and seconded by Ms. Martinez at 3:33pm.

Prepared and Submitted by:

Confirmed by:

  
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Nemencio David E. Briones  
Regulatory Examiner II

  
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Alice P. Sebastian Cruz  
Regulatory Examiner Supervisor