

Iowa Real Estate Commission  
200 East Grand, Suite 350  
Des Moines, IA 50309  
MINUTES  
August 6, 2020  
9:00 a.m.

The meeting was conducted via Zoom because of the public health recommendations to minimize public gatherings. Public access to this meeting was made available through Zoom.

**Commissioners present for all or part of the meeting**

Terry Duggan, Chair	Twee Duong
Dennis Stolk, Vice Chair	Jan DeMott
Wendy Carminhato	Helen Kimes
Jim Clingman	

**Staff present for all or part of the meeting**

Jeff Evans, Executive Officer	Lori SchraderBachar, PLB Site Manager
John Lundquist, Assistant Attorney General	Danielle Bartkiw, Licensing Specialist
Renee Paulsen, PLB Investigator	Colleen Goddard, Trust Account Auditor
Ashley Thompson, Background Manager	Jill Simbro, Education Director

**Members of Public in attendance for all or part of the open session of the meeting**

Mari Jo Mentzer, RE Instructor	Amanda Nagle, Iowa Association of Realtors
Arthur Cox, UNI Director of Real Estate Education	Gabe Walsh, Iowa Association of Realtors
Laura McMillon	Alon Schwartz, PSI Services
Paul McLaughlin	Cathy Laitinen, PSI Services

**Call to Order**

Duggan called the meeting to order at 9:05 a.m.  
Quorum was established.  
Introductions were made.

**Motion by Clingman to approve the agenda.**

Seconded by Kimes.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

**Approval of Minutes**

**Motion by Clingman to approve the June 11, 2020 IREC Meeting open and closed session minutes and to authorize Executive Officer Evans to sign the minutes on behalf of the Commission.**

Seconded by Stolk.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

**Commissioner Reports**

None.

### **Staff Reports**

Lundquist had nothing to report.

SchraderBachar had nothing to report.

Evans congratulated Carminhato, Clingman, DeMott, and Kimes on their appointments or reappointments to the commission. Evans thanked Duggan and Clingman for their time and effort in yesterday's Investigation Committee meeting. Evans reported staff has done very well supporting each other during summer vacations and working from home during this time of the declared Public Health Disaster Emergency. Evans asked the Commissioners to sign and return their per diems by the end of the day.

### **Communications**

**Waiver 20-09 (formerly known as W20-01 – Request for Waiver of Rule):** The petitioner, who is the former legal counsel for the Iowa Association of Realtors, was granted by the Commission at its February 13, 2020 meeting, a waiver of 193E Iowa Administrative Code §§ 4.1(9) & 16.2(1), and the requirement that a person seeking a new salesperson license complete a sixty (60) hour course in real estate principles and practices. The petitioner now seeks a waiver of 193E Iowa Administrative Code §§ 4.1(9) & 16.2(1) and the requirement that a salesperson applicant complete the following live instruction courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. In support of his waiver, the petitioner said that he has taught or co-taught all three of the required 12-hour courses while employed with the Iowa Association of Realtors and that he should be treated as any other instructor or college professor who would apply for a similar waiver.

After discussion, **Motion by DeMott to grant waiver 20-09.**

Lundquist advised that Iowa Code section 543B.15(8) required that an applicant for a new real estate salesperson license complete a Commission approved short course in real estate education of no less than 30 hours during the one-year time period immediately preceding the applicant taking the salesperson examination. While the petitioner had presented the Commission with evidence that he taught a number of prelicense education courses during his tenure as legal counsel for the Iowa Association of Realtors, none of those classes were conducted during the one-year period preceding the submission of his waiver application. Thus, those instruction hours cannot be applied as a substitute for the thirty-hour real estate education short course mandated by Iowa Code section 543B.15(8).

Seconded by None.

Motion failed for lack of second.

**Motion by Stolk to deny waiver 20-09.**

Seconded by Carminhato.

Vote: Aye: Carminhato, Clingman, Duggan, Duong, Kimes, Stolk Nay: DeMott Abstaining: None

Motion passed.

**Waiver W20-01 – Request for Waiver of Rule – Amended:** After discussion, **Motion by Kimes to amend waiver W20-01 by extending the expiration date through December 31, 2020.** The petitioner, who is the former legal counsel for the Iowa Association of Realtors, was granted by the Commission at its February 13, 2020 meeting a waiver of 193E Iowa Administrative Code §§ 4.1(9) & 16.2(1), and the

requirement that a person seeking a new salesperson license complete a sixty (60) hour course in real estate principles and practices. The waiver had an expiration date of August 31, 2020 and if a passing score of the real estate salesperson examination is not obtained by the aforementioned date, the waiver would expire and be deemed withdrawn. The Petitioner expressed difficulties in meeting the waiver deadline. The Commission observed that pursuant to the Governor's May 6, 2020 and subsequent proclamations regarding the ongoing COVID-19 emergency, it had authorized through the end of 2020 up to a six-month extension of all 60-hr course completion certificates dated March 19, 2019 or later for examination candidates to sit for the real estate salesperson licensing examination and subsequently apply for a salesperson license. It was the Commission's determination that the petitioner had demonstrated similar substantial hardships arising from the ongoing COVID-19 public health emergency to allow for a similar extension of his earlier waiver accommodation. All other terms of the prior waiver ruling are to remain unchanged.

Seconded by Stolk.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

After discussion, **Motion by Clingman to grant waiver 20-08.** The petitioner asked the Commission for a waiver of 193E – 4.1(543B) and 4.1(9) and the requirement that a salesperson applicant must complete all the required prelicense education during the 12 months prior to the date of application. At the regular meeting of the Iowa Real Estate Commission on May 7, 2020, the Commission voted to allow for all 60-hr course completion certificates dated March 19, 2019 or later a sixth-month extension for examination candidates to sit for the real estate salesperson licensing examination and subsequently apply for a salesperson license (see the proclamation continuing the State Public Health Emergency Declaration and the temporary provisions in Iowa Code § 543B.15(8)). Furthermore, it was the Commission's determination that the petitioner has demonstrated substantial hardships to allow for an extension for submission of a completed real estate salesperson application. The Commission does require that at the time of the application for licensure, the Petitioner demonstrate that he meets all other licensing requirements, including payment of the applicable licensing fee. If a completed application is not submitted by November 11, 2020, this waiver shall expire and will be deemed withdrawn.

Seconded by Stolk.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

#### **Accommodations Due to COVID-19**

Evans reported that approximately forty (40) applicants have been licensed without completing a criminal background check. Lundquist reviewed the areas of the governor's proclamation that affect the Commission: In-person continuing education, issuance of real estate licenses without completing the criminal background check, the 60-hr prelicense certificate expiration extension, and possibly (if the Emergency Proclamation goes through end of 2020) the provision that states professional licenses shall not expire during the duration of the pandemic.

**Motion by Clingman to approve the updated "Frequently Asked Questions about IREC licensing during the COVID-19 Pandemic and Emergency Proclamations in Iowa" document for distribution.**

Seconded by DeMott.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

### **RFP For Errors & Omissions Insurance Update**

Evans reported that the Request For Proposals (RFP) for the Real Estate Commission's group errors and omissions insurance program is ongoing, and that he, Lundquist, and Thompson have been working on the RFP process with Department of Administrative Services Central Procurement. The RFP was released to the Targeted Small Business Site on the 15<sup>th</sup> of July and issued on the 17<sup>th</sup> of July. Evans and Lundquist submitted their responses to the posted questions on August 5<sup>th</sup>. The proposals are due August 12<sup>th</sup>. Evans directed Commissioners to the link for DAS's website that has the original RFP as well as the answers submitted by the Commission.

### **Professional Examination Services Contract with PSI Services, LLC**

Evans introduced the Commissioners to Cathy Laitinen and Alon Schwartz from PSI. Schwartz gave an overview of how online/remote proctoring would work for real estate test administration. Schwartz described PSI's advanced technology and how it can provide a secure way for candidates to take the real estate examination and be proctored remotely, assuming the examination candidate meets the required system requirements. Schwartz explained minor and major infractions that take place during the proctoring of the examination and the protocol taken for each. Schwartz informed the Commissioners if they approve online/remote proctoring, it takes approximately three to four months for Internet Based Testing (ISB) to be available. Schwartz reports that out of PSI's 35 real estate clients, 12 have approved remote proctoring.

### **Motion by Kimes to approve PSI online/remote proctoring for real estate test administration.**

Seconded by Stolk.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

### **2020 Legislation Update**

Lundquist informed Commissioners that House File 2627 was passed by legislature. H.F. 2627 is a bill to reform professional licensure in the state of Iowa. Lundquist reviewed the areas of H.F. 2627 that will impact the Commission when the bill takes effect January 1, 2021. Lundquist explained the upcoming rule changes that the staff and Commission will need to consider in order to comply with the recently passed legislation. Questions regarding the bill can be addressed in future meetings

### **Public Comment**

Nagle from the Iowa Association of Realtors (IAR) informed the Commissioners that the 2020 IAR Convention will be held virtually. The IAR Convention will be held September 22 – 25, 2020.

The Commission took a break at 10:48 a.m. and reconvened at 11:04 a.m.

### **Closed Session**

**Motion by Kimes to go into closed session pursuant to Iowa Code §§ 21.5(1)(a) & (d) & (f) and 543B.15(9) to review pending licensee discipline cases and investigations, including any cases ready for final resolution through closure or consent order.**

Seconded by Clingman.

Roll Call: Carminhato, aye; Clingman, aye; DeMott, aye; Duggan, aye; Duong, aye; Kimes, aye; Stolk, aye.

Motion passed unanimously.

The Commission entered into closed session at 11:05 a.m. and arose from there at 12:48 p.m.

**Open Session**

**Motion by Kimes to return to open session.**

Seconded by Clingman.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

**Motion by Stolk to accept the signed settlements and/or consent agreements for the cases discussed in closed session and to authorize Evans (Executive Officer) to sign the accepted, signed Settlement Agreements/Consent Agreements for the following cases: 19-015, 20-022, 20-034, 20-040, 20-041, 20-063, 20-064, 20-072, and 20-112.**

Seconded by Stolk.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

**Motion by Clingman to find probable cause and to authorize Evans (Executive Officer) to sign the accepted, signed Settlement Agreements for IREC Case No. 20-123 and IREC Case No. 20-132 as discussed in closed session.**

Seconded by Duong.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

**Motion by Clingman to grant licensure for IREC Case No. 20-147, 20-149, and 20-159 as discussed in closed session.**

Seconded by Stolk.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

**Motion by Kimes to enter into a Consent Agreement with the Applicant, with Executive Officer Evans signing on behalf of the Commission and then grant licensure when all other licensing requirements have been met for IREC Case No. 20-155.**

Seconded by Clingman.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

**Motion by Stolk to find probable cause for the following cases: 20-070, 20-082, 20-102, and 20-105 as discussed in closed session.**

Seconded by Kimes.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

**Motion by Stolk to find probable cause for IREC Case No. 20-013 as discussed in closed session.**

Seconded by Kimes.

Vote: Aye: Carminhato, DeMott, Duggan, Duong, Kimes, Stolk      Nay: None      Abstaining: Clingman

Motion passed.

**Motion by Clingman to close the following cases: 19-095, 19-105, 19-124, 19-181, 19-191, 19-199, 20-058, 20-078, 20-079, 20-080, 20-089, 20-099, 20-103, 20-104, 20-107, 20-115, 20-116 as discussed in closed session.**

Seconded by Duong.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

**Motion by Clingman to close IREC Case No. 20-111 as discussed in closed session.**

Seconded by Duong.

Vote: Aye: Carminhato, Clingman, DeMott, Duong, Kimes, Stolk      Nay: None      Abstaining: Duggan

Motion passed.

**Motion by Clingman to rescind the probable cause finding and close IREC Case No. 17-165 and IREC Case No. 20-127, as discussed in closed session.**

Seconded by Carminhato.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 19-073 and the allegations of the unlicensed practice of real estate.

**Motion by Clingman to accept the signed consent agreement and to authorize Evans (Executive Officer) to sign the accepted, signed Cease and Desist Order by Consent Agreement.**

Seconded by Stolk.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 19-155 and the allegations of the unlicensed practice of real estate.

**Motion by Clingman to issue a "Notice of Intent to Impose Civil Penalty".**

Seconded by Kimes.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

Discussion was held re: IREC Case No. 19-156 and the allegations of the unlicensed practice of real estate.

**Motion by Clingman to close.**

Seconded by Stolk.

Vote: Aye: All                      Nay: None                      Abstaining: None

Motion passed unanimously.

### **Future Meetings**

#### **Investigation Committee Meetings**

Wednesday, September 2  
Wednesday, September 30  
Wednesday, November 4  
Wednesday, December 2

#### **Regularly Scheduled Meetings**

Thursday, September 3  
Thursday, October 1  
Thursday, November 5  
Thursday, December 3

### **Meeting Adjourned**

With all agenda items covered, the meeting adjourned at 1:16 p.m.

These minutes accurately reflect the minutes approved by the Commission at the meeting on:

September 3, 2020  
Date

T.M. L FOR IREC  
By: TERRANCE M. DUGGAN, Chair

**Iowa Real Estate Commission  
 Staff Report – As of 07/01/20  
 August 6, 2020 IREC Meeting**

**LICENSING TOTALS:**

	<u>Salespersons</u>	<u>Brokers</u>	<u>TOTAL IND. LICENSES</u>	<u>Firms</u>
Active	6,952	2,979		
Inactive	1,300	363		
Suspended	12	19		
<b>TOTAL</b>	<b>8,264</b>	<b>3,361</b>	<b>11,625</b>	<b>1,139</b>

**EXAMINATIONS ADMINISTERED BY PSI:**

	<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
Broker	123	267	296	296	298	324
Salesperson	1,266	2,280	2,040	2,091	1,796	1,638

**BROKERS & SALESPERSONS PROCESSED APPLICATIONS:**

	<u>Year To Date</u>
2012	625
2013	835
2014	845
2015	972
2016	1,031
2017	978
2018	1,035
2019	1,057
2020	606

	<u>Salespersons</u>	<u>Brokers</u>	<u>TOTAL SALESPERSON &amp; BROKER LICENSES ISSUED (YTD 2020)</u>
Exam	508	32	
Rule 5.3	48	7	
Reciprocity	9	2	
<b>TOTAL</b>	<b>565</b>	<b>41</b>	<b>606</b>

**TOTAL FINGERPRINTS SUBMITTED TO FBI & DCI**

<u>Turnaround Time (Days)</u>		<u>2020</u>
Minimum	1	Total Processed 670
Maximum	72	
Average (YTD 2020)	4	

**AUDITS:**

	<u>Year To Date Totals</u>
Continuing Education	166
E & O	269
Trust Account	214



**PERCENTAGE OF NONCOMPLIANCE FOR E&O AND CE AUDITS:**

<u>Year</u>	<u>E&amp;O</u>	<u>Continuing Education</u>
2015	15.9%	3.2%
2016	23.44%	4.7%
2017	17.87%	2.9%
2018	4.16%	0.59%
2019	1.22%	3.37%
2020	12.64%	1.81%

**INVESTIGATIONS/CONTESTED CASE HEARINGS/DISCIPLINARY ACTION:**

	<u>Year To Date Totals</u>
Complaint Cases Opened YTD	147
<b><u>Commission Action:</u></b>	
Closed	49
Closed with Informal Cautionary Letter	12
Closed and Granted License	4
Signed Informal Settlement Agreements	28
Signed Applicant Consent Agreements	8
Signed Cease and Desist by Consent Agreement	2
Statement of Charges Filed	-
License Denials	1
Formal Hearings	-
Total	104
<b><u>IREC Staff Action:</u></b>	
Closed	32
License Suspension	-
Other	2
Total	<u>34</u>
Complaint Cases Closed YTD	138
Average Amount Of Time (Open To Close)	216 Days

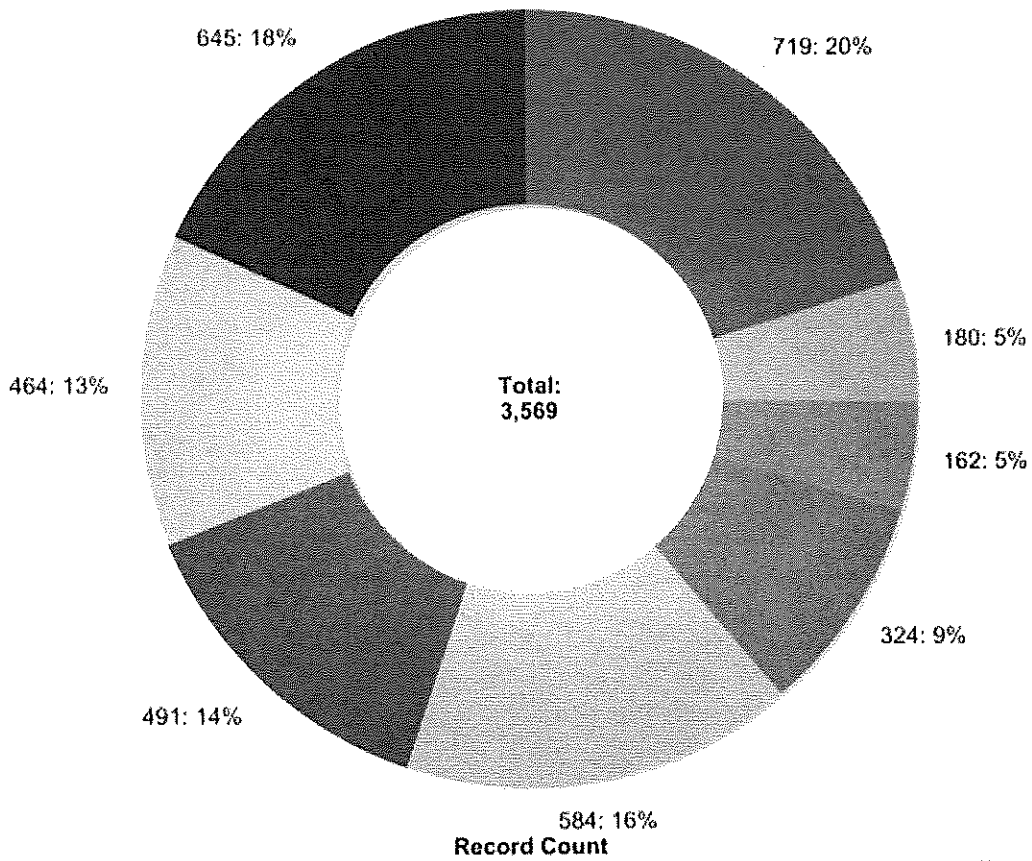
**Disciplinary Action Totals:**

Civil Penalties Assessed	\$ 50,000
Continuing Education Hours Assessed	46
CPA Audits Assessed	2
Trust Account Reexaminations Assessed	-
Probations Assessed	1
Suspensions Assessed	3
Revocations/Voluntary Surrenders	1
Cease and Desist Injunction	3
License Denial	1
Statement of Charges Filed (Outstanding)	-

**REAL ESTATE EDUCATION REPORT:**

	<u>Year To Date Totals</u>
Course Approvals (New/Renewed)	451
Instructor Approvals (New/Renewed)	62
Provider Approvals (New/Renewed)	8
Pre/Post Course Approvals	23
Denied Courses	-

**IREC APPLICATIONS PROCESSED (2020):**



- Type**
- General - Request for Background Check Packet
  - General - Request for License Verification (License History)
  - RE Commission - Change Status to Active
  - RE Commission - Change Status to Inactive
  - RE Commission - Salesperson/Broker
  - RE Commission - Transfer
  - RE Commission - Authorized Course Application
  - Other

**Iowa Real Estate Commission  
 Staff Report – As of 08/01/20  
 August 6, 2020 IREC Meeting**

**LICENSING TOTALS:**

	<u>Salespersons</u>	<u>Brokers</u>	<u>TOTAL IND. LICENSES</u>	<u>Firms</u>
Active	7,031	2,982		
Inactive	1,314	367		
Suspended	12	19		
<b>TOTAL</b>	<b>8,357</b>	<b>3,368</b>	<b>11,725</b>	<b>1,143</b>

**EXAMINATIONS ADMINISTERED BY PSI:**

	<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
Broker	143	267	296	296	298	324
Salesperson	1,549	2,280	2,040	2,091	1,796	1,638

**BROKERS & SALESPERSONS PROCESSED APPLICATIONS:**

	<u>Year To Date</u>
2012	625
2013	835
2014	845
2015	972
2016	1,031
2017	978
2018	1,035
2019	1,057
2020	708

	<u>Salespersons</u>	<u>Brokers</u>	<u>TOTAL SALESPERSON &amp; BROKER LICENSES ISSUED (YTD 2020)</u>
Exam	594	36	
Rule 5.3	56	10	
Reciprocity	10	2	
<b>TOTAL</b>	<b>660</b>	<b>48</b>	<b>708</b>

**TOTAL FINGERPRINTS SUBMITTED TO FBI & DCI**

<u>Turnaround Time (Days)</u>		<u>2020</u>
Minimum	1	Total Processed 791
Maximum	72	
Average (YTD 2020)	4	

**AUDITS:**

	<u>Year To Date Totals</u>
Continuing Education	189
E & O	269
Trust Account	220

**PERCENTAGE OF NONCOMPLIANCE FOR E&O AND CE AUDITS:**

<u>Year</u>	<u>E&amp;O</u>	<u>Continuing Education</u>
2015	15.9%	3.2%
2016	23.44%	4.7%
2017	17.87%	2.9%
2018	4.16%	0.59%
2019	1.22%	3.37%
2020	13.86%	1.59%

**INVESTIGATIONS/CONTESTED CASE HEARINGS/DISCIPLINARY ACTION:**

	<u>Year To Date Totals</u>
Complaint Cases Opened YTD	171
<b><u>Commission Action:</u></b>	
Closed	65
Closed with Informal Cautionary Letter	16
Closed and Granted License	7
Signed Informal Settlement Agreements	28
Signed Applicant Consent Agreements	9
Signed Cease and Desist by Consent Agreement	2
Statement of Charges Filed	-
License Denials	1
Formal Hearings	-
Total	128
<b><u>IREC Staff Action:</u></b>	
Closed	33
License Suspension	-
Other	2
Total	<u>35</u>
Complaint Cases Closed YTD	163
Average Amount Of Time (Open To Close)	208 Days

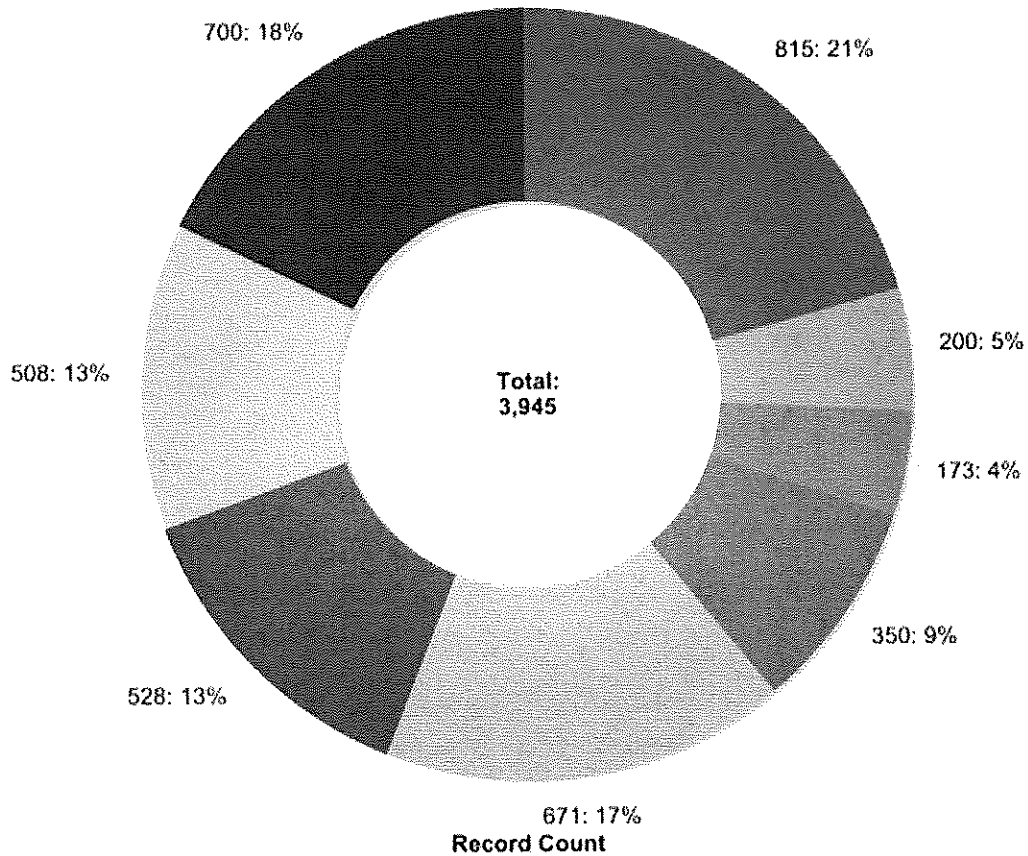
**Disciplinary Action Totals:**

Civil Penalties Assessed	\$ 56,500
Continuing Education Hours Assessed	52
CPA Audits Assessed	2
Trust Account Reexaminations Assessed	-
Probations Assessed	1
Suspensions Assessed	3
Revocations/Voluntary Surrenders	1
Cease and Desist Injunction	3
License Denial	1
Statement of Charges Filed (Outstanding)	-

**REAL ESTATE EDUCATION REPORT:**

	<u>Year To Date Totals</u>
Course Approvals (New/Renewed)	495
Instructor Approvals (New/Renewed)	70
Provider Approvals (New/Renewed)	9
Pre/Post Course Approvals	26
Denied Courses	-

**IREC APPLICATIONS PROCESSED (2020):**



Type
■ General - Request for Background Check Packet
■ General - Request for License Verification (License History)
■ RE Commission - Change Status to Active
■ RE Commission - Change Status to Inactive
■ RE Commission - Salesperson/Broker
■ RE Commission - Transfer
■ RE Commission - Authorized Course Application
■ Other