

April 12, 2017
8:30 A.M.
North Dakota Heritage Center
Lecture Room B
612 East Boulevard Ave
Bismarck, ND 58501

Present: Jerry Schlosser/Chair, Roger Cymbaluk/Member, Scott Breidenbach/Member,
Jerry Youngberg/Member, Patricia M. Jergenson/Executive Director,
Constance Hofland/Special Assistant Attorney General

Absent: Diane Louser/Vice Chair

1. CALL MEETING TO ORDER. Chair Schlosser called the meeting to order. Roll call was taken. Commissioners Schlosser, Cymbaluk, Breidenbach, and Youngberg were present in person. Absent: Commissioner Louser.
2. REVIEW MINUTES OF FEBRUARY 22, 2017 MEETING. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the February 22, 2017 minutes as presented. M/C
3. FINANCIAL REPORTS JANUARY AND FEBRUARY 2017. Executive Director Jergenson presented the financial reports for January and February 2017. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to approve the January and February 2017 financial reports as presented. M/C
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFFLAND.
 - a. Complaint #2016-28 Jeff M. Halland v Scott Louser and Alexa F. Louser: Memorandum. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to dismiss this complaint upon advice of counsel. M/C (1 nay, Commissioner Breidenbach)
 - b. Complaint #2016-31 Scott A Johnson v Angi R Sellers: Memorandum. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Youngberg moved and seconded by Commissioner Cymbaluk to dismiss this complaint. M/C
 - c. Complaint #2017-02 Rusty Hartmann v Jason Ennen and Marissa M Holman: Memorandum. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to dismiss this complaint upon advice of counsel. M/C

5. ADVERTISING ISSUES.

- a. Executive Director Jergenson presented evidence of the third advertising issue regarding Barbara A. Bernhardt noting that she had received two notices in the past regarding advertising errors. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to file a complaint against Ms. Bernhardt and her broker. M/C
- b. Commissioners continued discussion on the definition of “prominent” as it pertains to advertising. It was the consensus of the Commissioners to request legal counsel to write a memorandum on possible verbiage for clarification and to continue this item on the agenda. Nancy Deichert, Association Executive for the Bismarck-Mandan Board of Realtors asked Commissioners to consider removing the requirement for having the company contact information in the advertising rule.
- c. Commissioners discussed a current “Coming Soon” marketing trend. Administrative Rule 70-02-03-04 requires that a licensee obtain a signed listing agreement on residential real property prior to the time that property is advertised or offered for sale therefore “Coming Soon” is not allowed unless there is a signed listing contract.

6. REVIEW LICENSE APPLICATIONS.

- a. Commissioners reviewed the application Jacob C Bailiff for a salesperson license. Mr. Bailiff joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to approve Mr. Bailiff to sit for the salesperson license examination. M/C
- b. Commissioners reviewed the application of Anthony R Church for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to deny Mr. Church’s application due to issues on his credit report. M/C
- c. Commissioners reviewed the application of Karen M George for a salesperson license. Ms. George joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve Ms. George to sit for the salesperson license examination pending documentation showing that the items on her credit report have been satisfied to staff. M/C
- d. Commissioners reviewed the application Sarah J Gerads for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to approve Ms. Gerads to sit for the salesperson license examination. M/C
- e. Commissioners reviewed the application of Sara J Hegerle for a salesperson license. Ms. Hegerle joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Ms. Hegerle to sit for the salesperson license examination pending documentation showing that the item on her credit report has been satisfied to staff. M/C (1 nay, Commissioner Breidenbach)
- f. Commissioners reviewed the application of David W Knudson for a salesperson license. Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to table Mr. Knudson’s application and requested that Mr. Knudson appear before the Commission either in person or on conference call to provide an explanation to the Commission regarding his background report. M/C

- g. Commissioners reviewed the application Todd H Koppinger for a salesperson license. Mr. Koppinger joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Mr. Koppinger to sit for the salesperson license examination. M/C
 - h. Commissioners reviewed the application of Mark L Sertich for a salesperson license. Mr. Sertich joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table Mr. Sertich's application pending documentation showing that the item on his credit report has been satisfied to the Commission. M/C
 - i. Commissioners reviewed the application Carie A Reichert for a salesperson license. Ms. Reichert joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to approve Ms. Reichert to sit for the salesperson license examination. M/C
 - j. Commissioners reviewed the application of Cory R Samson for a salesperson license. Mr. Samson joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to approve Mr. Samson to sit for the salesperson license examination pending documentation showing that his probation is completed to staff. M/C
 - k. Commissioners reviewed the application Trevor A Schmitt for a salesperson license. Mr. Schmitt joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to approve Mr. Schmitt to sit for the salesperson license examination. M/C
 - l. Commissioners reviewed the application of Amanda N Tanke for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to table Ms. Tanke's application pending further explanation to the Commission regarding the items on her credit report. M/C
 - m. Commissioners reviewed the application of Jeran E Thomson for a salesperson license. Mr. Thomson joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table Mr. Thomson's application until two letters of reference from business associates are provided to the Commission. M/C
 - n. Commissioners reviewed the application of Charles D Turner for a salesperson license. Mr. Turner joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table Mr. Turner's application until he shows that the issues on his credit report are up-to-date or a payment plan is set up with the creditors. M/C
7. REVIEW REQUEST FOR WAIVER OF THE 2 YEARS OF EXPERIENCE AS SALESPERSON AND BROKER LICENSE EDUCATION FROM ANGELA M MUELLER. Commissioners reviewed the request for a waiver of the two year salesperson experience from Angela M Mueller. Ms. Mueller attended the meeting by conference call to answer any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the waiver of the two year salesperson experience and allow Ms. Mueller to sit for the state portion of the examination. M/C

8. REVIEW TABLED APPLICATIONS.

- a. Mr. Cofell's application for a salesperson license was tabled at the March 31, 2016 Commission meeting pending receipt of 3 letters of reference from non-family members. Mr. Cofell provided the letters of reference as requested and joined the meeting in person to answer any questions the Commission might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Mr. Cofell to sit for the salesperson license examination. M/C
- b. Mr. Fetch's application for a North Dakota real estate salesperson license was tabled by the North Dakota Real Estate Commission at its meeting on February 22, 2017 pending receipt of written documentation explaining the charge showing on his background check that was not disclosed by him on his application. Mr. Fetch provided an explanation as requested. Mr. Fetch joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to approve Mr. Fetch to sit for the salesperson license examination. M/C
- c. Mr. Larson's application for a North Dakota real estate salesperson license was tabled by the North Dakota Real Estate Commission at its meeting on February 22, 2017 pending receipt of two (2) letters of reference from business associates, past employers or his bank. Mr. Larson has provided the requested letters. Mr. Larson joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Mr. Larson to sit for the salesperson license examination. M/C

9. REVIEW APPEAL OF DENIED APPLICATIONS.

- a. Mr. DePasquale's application for a non-resident broker license was denied at the February 22, 2017 Commission meeting due to issues on his credit report. Mr. DePasquale joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to approve Mr. DePasquale's application pending receipt of documentation showing that the items on his credit report have been satisfied to staff. M/C
- b. Ms. Kitzman's application for a salesperson license was denied at the February 22, 2017 Commission meeting due to issues on her credit report and the Commission's request for more information regarding the status of her DUI in January 2017. Ms. Kitzman notified Executive Director Jergenson that she intends to appeal the denial of her application however she is still working on cleaning up items on her credit report. No action taken.

10. LEGISLATIVE UPDATE. Executive Director Jergenson went over the timeline for drafting, publicizing, holding a hearing and submitting proposed Administrative Rule changes to the Administrative Rules Committee. She then presented proposed changes to the following Administrative Rules: 70-01-01-01, 70-02-01-05, 70-01-02, 70-02-01-15(1)(a), 70-02-04-05 and 70-02-01-02. Commissioners, in discussing the proposed rule changes, also discussed possibly requiring a broker to have a succession plan, legal counsel developing verbiage to allow for testimony at a hearing to be conducted in person, conference call or video such as Skype, additional research by legal counsel and the Executive Director on adding title company to 70-02-01-15(1)(a), and draft verbiage to revise 70-02-01-02. Application for License. The proposed rule changes will be reviewed at the next Commission meeting.

11. LICENSE DATABASE UPDATE. Executive Director Jergenson notified the Commission that the Memo of Understanding with GL Suite was cancelled. GL Suite has issued a prorated bill for \$2601 for the second quarter. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to allow staff to handle negotiations of the charges. M/C
12. REVIEW REQUEST FOR CONSIDERATION OF A RECIPROCAL AGREEMENT WITH THE STATE OF INDIANA. Executive Director Jergenson informed the Commission of a request for consideration of a reciprocal agreement with Indiana. The consensus of the Commission is to submit North Dakota licensing requirements to Indiana for review.
13. REVIEW EMAIL FROM WEST VIRGINIA REGARDING RESCINDING OF ALL RECIPROCAL AGREEMENTS EFFECTIVE APRIL 1, 2017. Commissioners reviewed the email from West Virginia regarding rescinding of all reciprocity agreements effective April 1, 2017.
14. CONTINUE DISCUSSION ON POSSIBLE MANDATORY TOPIC FOR 2018. Commissioners discussed possible mandatory topics for the 2018 CE cycle. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to require three hours on agency for the mandatory topic for the 2018 CE cycle. M/C Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to research changing the administrative rules to require brokers to take an additional 3 hours of continuing education a year. M/C
15. NEW APPLICANT STATISTICS. Commissioners reviewed the new applicant statistics.
16. PRE-LICENSING SCHOOL STATISTICS. Commissioners reviewed the pass/fail statistics for salesperson license examination which is broken out by pre-licensing schools.
17. 2017 LICENSE RENEWAL STATISTICS. Commissioner reviewed the 2017 license renewal statistics.
18. PURCHASE OF OFFICE EQUIPMENT. Executive Director Jergenson presented a proposal for \$1,436.00 to purchase three office chairs with funds from the Set Aside account. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve the purchase of three office chairs as requested by staff. M/C
19. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the February 22, 2017 meeting. A list of those waivers is attached to these minutes.
20. PRIORITIES 2016. The Commissions priorities will be discussed at their next meeting.
21. OTHER BUSINESS.
 - a. Proposed verbiage for the administrative rule changes will be discussed at the next Commission meeting.
 - b. Commissioners discussed having their next meeting in June.

There being no further business Chair Schlosser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director