

August 10, 2017  
8:30 AM CDT  
Ft. Union Room  
State Capitol  
600 E Boulevard Ave  
Bismarck, ND 58501

Present in person: Diane Louser/Chair, Roger Cymbaluk/ Vice Chair, Scott Breidenbach/Member, Sandy Meyer/Member, Jerry Schlosser/Member, Patricia M. Jergenson/Executive Director, Constance Hofland/Special Assistant Attorney General

1. CALL MEETING TO ORDER. Chair Louser called the meeting to order. Roll call was taken. All Commissioners were present as well as Executive Director Jergenson and Special Assistant Attorney General Connie Hofland. Newly appointed Commissioner Sandy Meyer was recognized.
2. REVIEW MINUTES OF JUNE 15, 2017 MEETING. Commissioner Schlosser moved, seconded by Commissioner Breidenbach to approve the June 15, 2017 minutes as presented. M/C
3. FINANCIAL REPORTS MAY AND JUNE 2017. Executive Director Jergenson presented the financial reports for May and June 2017. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to accept the May and June 2017 financial reports as presented. M/C Executive Director Jergenson asked Commissioners to consider establishing a policy for funds to be kept in reserves. Commissioner Schlosser moved, seconded by Commissioner Breidenbach to set a policy to maintain 1 year operating expenses in reserves. M/C
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFFLAND.
  - a. Complaint #2017-06 Scott W. Nelson v Kevin D. Torgerson and Theresa M. Halvorson: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved to accept the recommendation of legal counsel and dismiss the complaint. Motion died for lack of a second. Commissioner Schlosser moved, seconded by Commissioner Breidenbach to set this complaint for hearing. M/C (4 ayes, 1 nay Commissioner Meyer.) Consensus was to offer a stipulated agreement of a letter of reprimand.
  - b. Complaint #2017-07 NDREC v Shelly F. Lutz: Memorandum. This will be placed on the next Commission meeting agenda.

- c. Special Assistant Attorney General Connie Hofland stated that in her opinion regarding it was within the statute to scan and email a license to the broker so the licensee could begin work upon receipt of the emailed license without having to wait until the original license arrived via USPS at the office. Commissioner Breidenbach moved, seconded by Commissioner Meyer that when issuing a real estate license, once all of the necessary paperwork and fees are received in the Commission office the license can be scanned and emailed to the broker and the original license mailed. M/C
5. BILLBOARD ADVERTISEMENT. Commissioners looked at a copy of a billboard advertisement which did not contain company contact information. The advertisement was brought before them for clarification of the advertising requirements as they pertain to firm advertising. It was determined, after discussion which included the opinion of our legal counsel, that the firm advertisement does not require company contact information.
6. CLOSING STATEMENTS AS REQUIRED IN ADMINISTRATIVE RULE § 70-02-03-07. Staff had received an email from a broker asking if the closing statement as defined in Administrative Rule § 70-02-03-07 includes the closing disclosure and ALTA statements. It was noted that CFPB is implementing a new regulation that allows lenders to share the closing disclosures with third parties so brokers will be able to receive the closing statements. The ALTA settlement statements do meet the definition of the administrative rule and should remain in the transaction file after closing.
7. DISCUSS REQUIRING BROKER APPLICANT ASSESSMENT REQUESTS. Executive Director Jergenson informed the Commission that she had received an email from a broker expressing concern of possible liability issues with a couple of the questions on the broker applicant assessment form. Jergenson stated that broker liability is no different than that of an employer and the Commission office would not comment on anything other than the dates of employment. Jergenson also pointed out that question number 6 on the form is required by statute. Commissioner Breidenbach moved, seconded by Commissioner Schlosser to change the assessment form making questions 7 and 8 optional with the remainder of the form required to be answered by the broker. M/C
8. REVIEW LICENSE APPLICATIONS.
  - a. Commissioners reviewed the application of Ryan A. Belen for a reciprocal salesperson license. Mr. Belen joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to issue Mr. Belen a reciprocal ND salesperson license. M/C
  - b. Commissioners reviewed the application of Heidi B. Boushy for a salesperson license. Ms. Boushey joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve Ms. Boushey to sit for the salesperson license examination. M/C
  - c. Commissioners reviewed the application of Christina L. Clay for a salesperson license. Ms. Clay joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to approve Ms. Clay to sit for the salesperson license examination. M/C

- d. Commissioners reviewed the application of Brian L. Fuder for a reciprocal salesperson license. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to issue Mr. Fuder a reciprocal ND salesperson license. M/C
  - e. Commissioners reviewed the application of Kelly N. Kraft for a salesperson license. Ms. Kraft joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve Ms. Kraft to sit for the salesperson license examination. M/C
  - f. Commissioners reviewed the application of Austin P. Lang-Dahl for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Meyer to approve Mr. Lang-Dahl to sit for the salesperson license examination pending verification showing that the item in collection on his credit report has been satisfied is provided to staff. M/C
  - g. Commissioners reviewed the application of Dominick T. Oliver for a salesperson license. Mr. Oliver joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Schlosser to table Mr. Oliver's application pending his appearance before the Commission with documentation showing that the items on his credit report have been satisfied. M/C
  - h. Commissioners reviewed the application of Perry T. Stagl for a salesperson license. Mr. Stagl joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to approve Mr. Stagl to sit for the salesperson license examination. M/C
  - i. Commissioners reviewed the application of Jason R. Thornton for a salesperson license. Mr. Thornton joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Breidenbach to approve Mr. Thornton to sit for the salesperson license examination pending documentation showing that the items on his credit report are all current to staff. Commissioner Schlosser moved, seconded by Commissioner Breidenbach to amend the motion to require Mr. Thornton to provide proof that the accounts on his credit report are current and provide 3 letters from community members of Valley City to staff. Amended motion carried. M/C.
9. REVIEW A REQUEST FOR WAIVER OF THE REQUIREMENT TO TAKE THE NATIONAL PORTION OF THE SALESPERSON REAL ESTATE LICENSE EXAMINATION FROM CHYNA FALCON. Commissioners reviewed the salesperson application of Chyna Falcon and her request to have the national portion of the salesperson examination waived due to her having passed the national exam to gain her Colorado real estate license. Ms. Falcon joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to waive the requirement for Ms. Falcon to take the national portion of the salesperson real estate examination pending receipt of a certificate of licensure from Colorado showing that her license is in good standing and that she take and pass the examination within 2 years of receiving her license in Colorado. M/C

10. REVIEW DENIED APPLICATIONS:

- a. Ms. Kitzman's application for a North Dakota real estate salesperson license was denied at the February 22, 2017 Commission meeting due to issues on her credit report and a January 2017 DUI charge. Ms. Kitzman notified staff that she is appealing that decision however to date she has not provided any information to verify that the issues on her credit report have been cleared up. She provided information regarding the DUI charge which shows that she is on unsupervised probation until January 25, 2018. Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to stay with the commission's original motion to deny Ms. Kitzman's application. M/C
  - b. Mr. Ludwig's application for a North Dakota real estate salesperson license was denied at the June 15, 2017 Commission meeting due to issues on his credit report. Mr. Ludwig joined the meeting by conference call to appeal that denial and to discuss any questions the Commissioners might have. Mr. Ludwig provided documentation showing that he has taken care of the issues on his credit report. Commissioner Cymbaluk moved, seconded by Commissioner Meyer to approve Mr. Ludwig to take the salesperson examination. M/C
11. REQUEST TO APPEAR FROM BISMARCK-MANDAN BOARD OF REALTORS: TRICIA SCHLOSSER, PRESIDENT. Tricia Schlosser, President of the Bismarck-Mandan Board of Realtors expressed the Board's concerns on how social media is/is not addressed in the advertising rule in particular NDAC 70-02-03-02.1(2-5). They are looking for clarification on the number of clicks on social media (can contact information be a click away). Ms. Schlosser stated that the board is planning a task force to review these items and would like someone from the Commission to participate. Commissioner Breidenbach volunteered to participate in the Bismarck-Mandan Board of Realtor's task force on social media.
12. NORTH DAKOTA ASSOCIATION OF REALTORS (NDAR) REQUEST REGARDING THEIR PRE-LICENSING TASK FORCE. Jill Beck, NDAR CEO informed the Commission that NDAR's pre-licensing education task force would like a Commissioner to participate. Commissioner Cymbaluk will participate on that task force.
13. APPROVE 2018 RENEWAL LETTER FROM RISC FOR THE GROUP REAL ESTATE E&O PROGRAM. Commissioners reviewed the renewal letter from RISC for 2018 noting that there will not be an increase in the premium to our licensees. Commissioner Breidenbach moved, seconded by Commissioner Meyer to approve the 2018 E&O program renewal with RISC. M/C
14. RISC 2<sup>nd</sup> QUARTER 2017 GROUP POLICY CLAIMS INFORMATION. RISC provided the 2<sup>ND</sup> quarter 2017 group policy claims report to the Commission for their information.
15. FEDERATION OF ASSOCIATIONS OF REGULATORY BOARDS (FARB) REPORT. Executive Director Jergenson presented the highlights of her written report which included information that the ND Administrative Rules Committee is conducting an interim study on the oversight of professional licensing boards. Commissioners recommended that a membership in FARB be attained.
16. ARELLO DISTRICT 2 & 3 CONFERENCE REPORTS: COMMISSIONERS YOUNGBERG AND BREIDENBACH AND EXECUTIVE DIRECTOR JERGENSON. Commissioner Youngberg provided a written report. Commissioner Breidenbach and Executive Director Jergenson gave verbal reports.

17. ARELLO® FOUNDATION REQUEST. The Commission received a request from the ARELLO® Foundation Board for the donation of a silent auction item for their fundraiser during the 2017 Annual ARELLO® Conference. Commissioners agreed to personally donate to purchase an item for the silent auction.
18. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the June 15, 2017 meeting. A list of those waivers is attached to these minutes.
19. DISCUSS COMMISSION PRIORITIES. Commissioners added providing a credit card payment option for paying all fees to the list.
20. OTHER BUSINESS:
  - Thank you notes received at the Commission office were shared with the Commissioners.
  - Next possible meeting date in October was discussed.
  - Discussion on state provided purchase agreement. No action taken.

There being no further business Chair Louser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson  
Executive Director