

NORTH DAKOTA REAL ESTATE COMMISSION

Wednesday, February 22, 2017
8:30 AM Central Time
North Dakota Real Estate Commission
1110 College Dr.
Suite 209
Bismarck ND 58501

Commission Members: Jerry Schlosser, Chair
Diane Louser, Vice Chair
Roger Cymbaluk
Scott Breidenbach
Jerry Youngberg

A G E N D A

1. Call meeting to order.
2. Review minutes of January 10, 2017 and January 31, 2017 meetings.
3. September, October, November and December 2016 Financial reports.
4. Report on trust account audits: Rhonda Mahlum, Mahlum Goodhart PC
5. Legislative Update: HB 1306
6. Legal Update: Special Assistant Attorney General Constance Hofland:
 - a. Complaint #2016-04 NDREC v Lori J. Lingenfelter: Stipulation & Settlement Agreement
 - b. Complaint #2016-26 Rochelle P. Wetsch v Michael L. Marcotte & Kristopher J. Proulx: Memorandum
 - c. Complaint #2016-29 Brent L. Baker v Laurie K. Tweten: Memorandum
 - d. Complaint #2016-30 Tyson L. Zeltinger v Laurie K. Tweten: Memorandum
 - e. Complaint #2016-31 NDREC v Leo M. Wakefield: Memorandum
7. Advertising Issues/Unlicensed Activity.
8. Trust Account Issue.
9. Review license applications:
 - a. DePasquale, Ralph A.
 - b. Engquist, Trent J.
 - c. Evanson, Jennifer J.
 - d. Fetch, Jeff W.
 - e. Hamilton, Nicholas P.
 - f. Kitzman, Susanne M.
 - g. Larson, Paul J.
 - h. Lende, Dale G.
 - i. Liljenquist, Lindsey M.
 - j. Paulson, Paulette
 - k. Pickard, Elias L.
 - l. Schlabsz, Claire C.
 - m. Schneider, Lori J.

- n. Small, Tammy R.
 - o. Snell, Jeffrey T.
 - p. Swanson, Aleksandr M.
 - q. Thom, Tallena R.
10. Review tabled applications:
 - a. Fazlovic, Ismar
 - b. Ziegler, Jason R.
 11. Review appeal of denied application of Wesley S. Libner.
 12. Review request for waiver of national portion of salesperson license examination from Nicholas J. Walker.
 13. Review request for waiver of 2 years of experience as a salesperson from Paul D. Bakkum.
 14. Review application of Realty 5 Fargo-Moorhead LLC for compliance with NDAC 70-02-01-13 (firms with similar names)
 15. ARELLO Leadership Conference Report: Commissioner Youngberg
 16. Review approved trust account waivers.
 17. Other business.



North Dakota Real Estate Commission

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8:30 A.M.

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Bismarck, ND 58501

Members

Chair

Jerry Schlosser
Bismarck

Vice Chair

Diane R. Louser
Minot

Roger M. Cymbaluk
Williston

Scott A. Breidenbach
West Fargo

Rome C. Youngberg
Grand Forks

Patricia M. Jergenson
Executive Director

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

1. CALL MEETING TO ORDER. Chair Schlosser called the meeting to order. Roll call was taken, Commissioner Schlosser was present in person. Commissioners Louser, Cymbaluk, Breidenbach, and Youngberg were present by conference call.
2. REVIEW MINUTES OF JANUARY 10, 2017 AND JANUARY 31, 2017 MEETINGS. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve the January 10, 2017 and January 31, 2017 minutes as presented. M/C
3. SEPTEMBER, OCTOBER, NOVEMBER, AND DECEMBER 2016 FINANCIAL REPORTS. Executive Director Jergenson presented the financial reports for September, October, November, and December 2016. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to approve the September, October, November, and December 2016 financial reports as presented. M/C
4. REPORT ON TRUST ACCOUNT AUDITS: RHONDA MAHLUM, MAHLUM GOODHART PC. Rhonda Mahlum presented the Commission with issues that are still being found during the trust account audits; reconciling earnest money with title companies, different purchase agreements, broker for hire, and agents being incorporated.
5. LEGISLATIVE UPDATE: HB 1306. Executive Director Jergenson presented to the Commission the "Call to Action" that the North Dakota Association of Realtors (NDAR) sent out regarding HB 1306 and the statement that was made about the Commission not acting in compliance with the law. Special Assistant Attorney General Constance Hofland provided the Commission with her legal opinion regarding actions the Commission could take. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to ask NDAR to retract, clarify, and correct their statement and send it to whomever the statement was originally sent to including NDAR members, Commissioners, the Governor's office, and the House Veterans and Government Affairs Committee. M/C It was the consensus of the Commission to have legal counsel send the letter to NDAR with a request to have the correction published by March 1, 2017.

Executive Director Jergenson presented to the Commission the revised version of HB 1306 to be heard by the Senate. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to oppose HB 1306. M/C

6. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFFLAND:

- a. Complaint #2016-04 NDREC v Lori J. Lingenfelter: Stipulation & Settlement Agreement. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Lori J. Lingenfelter. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve the Stipulation and Settlement Agreement from Lori J. Lingenfelter in which she agrees to pay \$300 in fines and \$280 in legal and investigation costs as presented by Ms. Hofland. M/C
 - b. Complaint #2016-26 Rochelle P. Wetsch v Michael L. Marcotte & Kristopher J. Proulx: Memorandum. Special Assistant Attorney General Connie Hofland stated that the complainant has requested to have complaint withdrawn. Ms. Hofland recommended the complaint be dismissed. Commissioner Louser moved, seconded by Commissioner Youngberg to dismiss this complaint. M/C
 - c. Complaint #2016-29 Brent L. Baker v Laurie K Tweten: Memorandum. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Youngberg moved, seconded by Commissioner Louser to set this complaint for a hearing. M/C
 - d. Complaint #2016-30 Tyson L. Zeltinger v Laurie K Tweten: Memorandum. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to dismiss this complaint upon advice of counsel. M/C
 - e. Complaint #2016-31 NDREC v Leo M Wakefield: Memorandum. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to dismiss this complaint. M/C
7. ADVERTISING ISSUES/UNLICENSED ACTIVITY. Commissioner Youngberg recused himself from discussion and voting on this issue. Executive Director Jergenson presented to the Commission Neal Beitelspacher's website that advertises a firm that is not licensed with the North Dakota Real Estate Commission. Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to send a letter to Mr. Beitelspacher to take the website down immediately and to notify his broker. M/C
8. TRUST ACCOUNT ISSUE. Executive Director Jergenson presented to the Commission a trust account audit that came back for Joseph R. Kachuroi showing that Mr. Kachuroi was using a trust account that was not registered with the North Dakota Real Estate Commission. Commissioner Breidenbach moved, seconded by Commissioner Louser to send a letter to Mr. Kachuroi requesting documentation that the trust account has been closed. M/C
9. REVIEW LICENSE APPLICATIONS:
- a. Commissioners reviewed the application of Ralph A. DePasquale for a non-resident broker license. Commissioner Youngberg moved, seconded by Commissioner Louser to deny Mr. DePasquale's application due to issues on his credit report. M/C
 - b. Commissioners reviewed the application of Trent J. Engquist for a salesperson license. Mr. Engquist joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Engquist to sit for the salesperson license examination. M/C

- c. Commissioners reviewed the application of Jennifer J. Evanson for a salesperson license. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to approve Ms. Evanson 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 of Jeff W Fetch for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to table Mr. Fetch's application until he can provide clarification regarding issues on his background report. M/C
- e. Commissioners reviewed the application of Nicholas P. Hamilton for a salesperson license. Mr. Hamilton joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Louser moved, seconded by Commissioner Cymbaluk to approve Mr. Hamilton to sit for the salesperson license examination. M/C
- f. Commissioners reviewed the application of Susanne M. Kitzman for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to deny Ms. Kitzman's application due to issues on her credit and background report. M/C
- g. Commissioners reviewed the application of Paul J. Larson for a salesperson license. Mr. Larson joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table Mr. Larson's application until he can provide two letters of reference from trade organizations or his previous employers to be reviewed by the Commission. M/C
- h. Commissioners reviewed the application of Dale G. Lende for a salesperson license. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to approve Mr. Lende to sit for the salesperson license examination. M/C
- i. Commissioners reviewed the application of Lindsey M Liljenquist for a salesperson license. Commissioner Louser moved, seconded by Commissioner Youngberg to approve Ms. Liljenquist to sit for the salesperson license examination. M/C (1 nay, Commissioner Breidenbach)
- j. Commissioners reviewed the application of Paulette Paulson for a salesperson license. Ms. Paulson joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to approve Ms. Paulson to sit for the salesperson license examination. M/C
- k. Commissioners reviewed the application of Elias L. Pickard for a salesperson license. Mr. Pickard joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Mr. Pickard to sit for the salesperson license examination. M/C
- l. Commissioners reviewed the application of Claire C. Schlabsz for a salesperson license. Ms. Schlabsz joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve Ms. Schlabsz to sit for the salesperson license examination. M/C
- m. Commissioners reviewed the application of Lori J. Schneider for a salesperson license. Ms. Schneider joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by

Commissioner Louser to approve Ms. Schneider to sit for the salesperson license examination. M/C

- n. Commissioners reviewed the application of Tammy R. Small for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Ms. Small to sit for the salesperson license examination. M/C
- o. Commissioners reviewed the application of Jeffrey T Snell for a salesperson license. Mr. Snell joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Mr. Snell to sit for the salesperson license examination pending documentation showing that the IRS lien is satisfied to staff. M/C
- p. Commissioners reviewed the application of Aleksandr M. Swanson for a salesperson license. Mr. Swanson joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Louser moved, seconded by Commissioner Cymbaluk to approve Mr. Swanson to sit for the salesperson license examination. M/C
- q. Commissioners reviewed the application of Tallena R. Thom for a salesperson license. Ms. Thom joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to table Ms. Thom's application pending documentation that a payment plan has been set up to satisfy the issues on her credit report and to be reviewed by the Commission. M/C

10. REVIEW TABLED APPLICATIONS

- a. Mr. Fazlovic's application for a salesperson license was tabled at the December 15, 2016 Commission meeting until Mr. Fazlovic provided documentation to staff that he completed RESTORE and an anger management course and that the charge on the background report has been dismissed. Mr. Fazlovic joined the meeting by conference call to discuss any questions the Commissioners might have. The charge on Mr. Fazlovic's background check has been changed and he is currently on one year of unsupervised probation. Commissioner Cymbaluk moved, seconded by Commissioner Louser to table Mr. Fazlovic's application for 15 months until documentation showing that his probation has been completed has been provided to staff. M/C
- b. Mr. Ziegler's application for a reciprocal broker license was tabled at the November 3, 2016 Commission meeting and reviewed at the December 15, 2016 Commission meeting until the Commission's attorney could review license criteria. Mr. Ziegler joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to deny Mr. Ziegler's application due to issues on his background report. M/C

11. REVIEW APPEAL OF DENIED APPLICATION OF WESLEY S. LIBNER. Mr. Libner's application for a salesperson license was denied at the November 3, 2016 Commission meeting and his appeal of the denial was reviewed at the December 15, 2016 Commission meeting at which time his appeal was tabled until the Commission's attorney could review license criteria. Mr. Libner joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg uphold the denial of Mr. Libner's application. M/C

12. REVIEW REQUEST FOR WAIVER OF NATIONAL PORTION OF SALESPERSON LICENSE EXAMINATION FROM NICHOLAS J. WALKER. Commissioners reviewed

the request for a waiver of taking the national portion of the salesperson license examination from Nicholas J. Walker. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to deny Mr. Walker's request for a waiver of the national portion of the salesperson person license examination. M/C

13. REVIEW REQUEST FOR WAIVER OF 2 YEARS OF EXPERIENCE AS A SALESPERSON FROM PAUL D. BAKKUM. Commissioners reviewed the request for a waiver of the two year salesperson experience from Paul D. Bakkum. Mr Bakkum attended the meeting in person to answer any questions the Commissioners might have. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to approve the waiver of the two year salesperson experience, Mr Bakkum is required to take both the 45 hour salesperson pre-licensing course, the 60 hour broker course and take both the salesperson license examination and the broker simulation examination. M/C (1 nay, Commissioner Breidenbach)
14. REVIEW APPLICATION OF REALTY 5 FARGO-MOORHEAD LLC FOR COMPLIANCE WITH NDAC 70-02-01-13 (FIRMS WITH SIMILAR NAMES). Commissioners reviewed the application of Realty 5 Fargo-Moorhead LLC for compliance with NDAC 70-02-01-13. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to approve the firm name Realty 5 Fargo-Moorhead LLC. M/C
15. ARELLO LEADERSHIP CONFERENCE REPORT: COMMISSIONER YOUNGBERG. Commissioner Youngberg submitted his written report.
16. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the January 10, 2017 meeting. A list of those waivers are attached to these minutes.
17. REVIEW OTHER BUSINESS.
 - a. Executive Director Jergenson presented the status of the new database with GL Solutions to the Commission. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to have legal counsel evaluate the Memorandum of Understanding and if legal counsel and staff find that the liability incurred is limited to \$6,000.00 from the first quarterly payment that has already been made to cancel the agreement with GL Solutions and if not this will be discussed at the next meeting. M/C Staff will begin researching alternate license database providers.
 - b. Executive Director Jergenson notified the Commission that HB 1306 was going to be reviewed by the Senate Committee on March 3, 2017. Commissioner Schlosser agreed to prepare oral testimony and Commissioners Cymbaluk, Youngberg, Louser, and Breidenbach agreed to prepare written testimony.
 - c. Commissioners discussed having their next meeting the beginning part of April.

There being no further business Chair Schlosser adjourned the meeting.

Respectfully submitted,



Amanda Renner
Administrative Assistant