

June 15, 2017  
9:00 AM  
Ft. Union Room  
State Capitol  
600 E Boulevard Ave  
Bismarck, ND 58501

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

Present via conference call: Jerry Youngberg/Member

1. CALL MEETING TO ORDER. Chair Schlosser called the meeting to order. Roll call was taken. Commissioners Schlosser, Louser, Cymbaluk, and Breidenbach were present in person. Commissioner Youngberg joined the meeting via conference call. Chair Schlosser welcomed Sandra Meyer who will begin serving as Commissioner July 1, 2017.
- \*\* 12. Final Findings of Fact Conclusions of Law and Order Complaint 2016-29 Brent L. Baker v Laurie K. Tweten: Assistant Attorney General Edward Erickson. This agenda item was moved up to accommodate Assistant Attorney General Edward Erickson's schedule. Mr. Erickson opened the discussion regarding the hearing on this complaint which was conducted before an Administrative Law Judge on April 12, 2017. Commissioner Louser, who was not present at the hearing but has reviewed the transcripts and briefs, was asked by Mr. Erickson if she was confident that she could participate in this discussion to which Commissioner Louser answered yes. Mr. Erickson reviewed the recommended findings of fact provided by Special Assistant Attorney General Ms. Hofland. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to accept the Recommended Findings of Fact submitted by Ms. Hofland with the removal of item #7 and to follow the recommendation of Ms. Hofland regarding the fine and legal fees to be assessed to Ms. Tweten. Roll call vote was taken. Commissioners Cymbaluk, Louser, Breidenbach and Schlosser voted yes. Commissioner Youngberg voted no. M/C
2. REVIEW MINUTES OF APRIL 12, 2017 MEETING. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to approve the April 12, 2017 minutes as presented. M/C
3. FINANCIAL REPORTS MARCH AND APRIL 2017. Executive Director Jergenson presented the financial reports for March and April 2017. Commissioner Cymbaluk moved, seconded by Commissioner Louser to accept the March and April 2017 financial reports as presented. M/C

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

- a. Complaint #2017-01 Jordan R. Anderson v Michelle S. Kaufman and Suzy M. Shook: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint and recommended that the complaint be tabled. Commissioner Breidenbach moved, seconded by Commissioner Louser to table this complaint upon advice of counsel. M/C
- b. Complaint #2017-03 Carol Ziegler v Susan G. Finneman: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to dismiss this complaint as recommended by counsel. M/C
- c. Complaint #2017-04 NDREC v Barbara A. Bernhardt and Bob P. Schmidt: Stipulation & Settlement Agreements. Special Assistant Attorney General Connie Hofland presented the stipulated agreements as agreed to by Ms. Bernhardt and Mr. Schmidt. Each respondent has agreed to pay a \$300 fine and \$200 in legal/investigative fees. The respondents asked that the Commission be made aware of the situation which caused the advertising violation. Commissioner Cymbaluk moved, seconded by Commissioner Louser to accept the stipulated agreements as presented. M/C
- d. Complaint #2017-05 Shelby M. Janssen v Denise H. Pippin and Craig M. McIvor: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table this complaint until further investigation has been completed. M/C Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to file a complaint against Shelly F. Lutz, the buyer agent in the transaction resulting in Complaint 2017-05. M/C
- e. Memorandum on advertising “prominent” requirement options. Special Assistant Attorney General Connie Hofland presented a memo discussing options for consideration by the Commission: amend the administrative rules or adopt a policy to interpret the current administrative rule. Commissioners recommended that Ms. Hofland and Executive Director Jergenson provide a memo with specific language for a policy to interpret the rule.
- f. Memorandum on deposits with title companies. This agenda item was tabled and will be discussed in conjunction with proposed Administrative Rules changes. Erin Schmitz, representing the ND Land Title Association, addressed the Commission requesting that the Commission work with the Land Title Association on any proposed changes to NDAC§ 70-02-01-15. Ms. Hofland stated that she may have a conflict of interest as ND Land Title Association may be a client of her firm. Commissioners assured Ms. Schmitz that the Commission will work with her association on proposed rules pertaining to this subject.

5. REVIEW LICENSE APPLICATIONS.

- a. Commissioners reviewed the application of Blake D. Bond for a salesperson license. Mr. Bond joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Bond to sit for the salesperson license examination. M/C

- b. Commissioners reviewed the application of Fatime B. Grajevci for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve Ms. Grajevci to sit for the salesperson license examination pending verification showing that the item on her credit report has been satisfied and an explanation of the discrepancies of her residence addresses to staff. M/C
  - c. Commissioners reviewed the application of Jayme L. Hobbs for a salesperson license. Ms. Hobbs joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Ms. Hobbs to sit for the salesperson license examination. M/C
  - d. Commissioners reviewed the application of Courtland E. Holman for a salesperson license. Ms. Holman joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Louser to approve Ms. Holman to sit for the salesperson license examination. M/C
  - e. Commissioners reviewed the application of Kristin N. Kasten for a salesperson license. Ms. Kasten joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to approve Ms. Kasten to sit for the salesperson license examination. M/C
  - f. Commissioners reviewed the application of Joseph R. Ludwig for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Louser to deny Mr. Ludwig's application due to issues on his credit report. M/C
  - g. Commissioners reviewed the application of Alissa M. Riopelle for a salesperson license. Ms. Riopelle joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve Ms. Riopelle to sit for the salesperson license examination. M/C
  - h. Commissioners reviewed the application of Alexander R. Spievogel for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table Mr. Spievogel's application until he can provide to the Commission verification that his probation has been completed and two (2) letters of reference from business associates. M/C
  - i. Commissioners reviewed the application of Haley A. Winkler for a salesperson license. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to approve Ms. Winkler to sit for the salesperson license examination pending verification showing that the judgment and the collection on her credit report have been satisfied to staff. M/C
6. DISCUSS FORMAT OF LICENSE APPLICANT SUMMARY PROVIDED TO THE COMMISSION. Commissioners and Special Assistant Attorney Constance Hofland discussed reasons for changing the format of the License Applicant Summary. Ms. Hofland stated that it could possibly be construed as discriminatory to discuss arrest dispositions on background checks that show not filed or dismissed. She stated that as applied the Commission is fair. No action was taken.
  7. REVIEW A REQUEST FOR WAIVER OF THE REQUIREMENT TO TAKE NATIONAL PORTION OF THE SALESPERSON REAL ESTATE LICENSE EXAMINATION FROM AMY M. BOWER. Chair Schlosser recused himself at this time and Vice Chair Louser took over the meeting. Commissioners reviewed the request for a waiver of the national portion of the

real estate license examination from Amy M. Bower. Ms. Bower attended the meeting by conference call to answer any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to waive the requirement for Ms. Bower to take the national portion of the examination. M/C Commissioner Breidenbach asked why a waiver is not granted automatically but must come before the Commission. Staff responded that an automatic waiver is not addressed in statute. Vice Chair Louser turned the meeting back over to Chair Schlosser.

8. REVIEW TABLED APPLICATIONS.

- a. Ms. Goe's application for a salesperson license was tabled by the North Dakota Real Estate Commission at its meeting on December 15, 2016 pending receipt of written documentation showing that she had settled issues on her credit report. Ms. Goe joined the meeting by conference call and had provided the requested documentation. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Ms. Goe to take the salesperson license examination. M/C
- b. Mr. Knudson's application for a salesperson license was tabled by the North Dakota Real Estate Commission at its meeting on April 12, 2017. Mr. Knudson was requested to appear before the Commission either in person or by conference call to explain the items appearing on his background report which he did not disclose on his application. Mr. Knudson was present in person at this meeting. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Mr. Knudson to take the salesperson license examination once he provides to staff a letter showing that he has completed the treatment program, two (2) letters of reference, and verification that he has completed his probation. M/C
- c. Mr. Sertich's application for a salesperson license was tabled by the North Dakota Real Estate Commission at its meeting on April 12, 2017 pending receipt of written documentation showing that he had entered into a payment plan regarding the items in collection on his credit report and that he had begun making payments. Mr. Sertich joined the meeting by conference call and had provided the requested documentation. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to approve Mr. Sertich to take the salesperson license examination. M/C
- d. Ms. Tanke's application for a salesperson license was tabled by the North Dakota Real Estate Commission at its meeting on April 17, 2017. Ms. Tanke was requested to appear before the Commission either in person or by conference call to explain the items appearing on her credit report. The check she issued for her application fee came back NSF in November 2016. We have not received payment as requested and a letter from Bell Bank showed numerous NSF checks on her account in the last year. Commissioner Breidenbach moved, seconded by Commissioner Louser to deny Ms. Tanke's application. M/C

9. REVIEW DENIED APPLICATION OF LAURA V. WHEELER. Ms. Wheeler requested the Commission to allow her additional time to take the real estate examination as she did not take it within four months of the notification of approval. She was not present at this meeting for discussion. Staff provided documentation showing the correspondence between Ms. Wheeler and the Commission office. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to deny Ms. Wheeler's request for additional time to take the license examination. M/C

10. BILLBOARD ADVERTISEMENT. Discussion on this item was tabled until Special Assistant Attorney General Constance Hofland is present to participate.
11. 2017 CONTINUING EDUCATION AUDIT REPORT. Commissioners reviewed the continuing education (ce) audit report showing 11 licensees who either took more than 8 hours of ce in one day, completed their license renewal prior to completing their ce (before November 15<sup>th</sup> deadline) and stated on the renewal that they had completed their ce or completed their ce after the November 15<sup>th</sup> deadline but had renewed stating that their ce was completed. Commissioners asked staff to send letters to the licensees reminding them that their ce is to be completed before they complete their renewal and copy their brokers on the letters. Staff was also asked to send a certified letter to the 2 licensees who did not complete their ce prior to November 15<sup>th</sup>, 2016 asking them to explain why their ce was not completed by November 15, 2016. Their responses are to be brought back before the Commission.
12. Final Findings of Fact Conclusions of Law and Order Complaint 2016-29 Brent L. Baker v Laurie K. Tweten: Assistant Attorney General Edward Erickson. See page 1 of these minutes.
13. REAL ESTATE LICENSE EXAMINATION PROVIDER. Executive Director Jergenson noted that the contract with our license examination provider ends in June 2018 and that there are currently only 2 ARELLO® approved license examination providers. Commissioners asked staff to send a letter to PSI/AMP asking how the changes occurring in their merger will affect our license applicants and the services provide to the Commission.
14. REVIEW CONTINUING EDUCATION COURSE APPROVAL. Executive Director Jergenson provided the Commission with the application for approval for a course titled: *Marijuana in Real Estate*. It was the consensus of the Commission that this course topic is timely and the course should be approved.
15. RISC 1<sup>ST</sup> QUARTER 2017 GROUP POLICY CLAIMS INFORMATION. RISC provided the 1<sup>st</sup> quarter 2017 group policy claims report to the Commission for their information.
16. PROPOSAL FROM MAHLUM GOODHART PC TO CONDUCT ANNUAL AUDIT. Commissioners reviewed the proposal from Mahlum Goodhart PC to conduct the annual audit. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve the proposal from Mahlum Goodhart PC to conduct the annual audit. M/C
17. REVIEW 2017/18 PROPOSED BUDGET. Executive Director Jergenson presented the proposed budget for 2017/18 and explained the reasoning for the 2 options on the proposed income portion. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to approve the income budget based on no fee increase and the expense budget as proposed. M/C Executive Director Jergenson asked the Commission to consider a bonus for Sheree Raynes in appreciation and recognition for the way she has stepped up when we have been short staffed. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to give Sheree Raynes a \$2000.00 (two thousand dollar) bonus. M/C
18. ELECTION OF OFFICERS FOR 2017/18. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to nominate Commissioner Diane Louser as Chair and Commissioner Roger Cymbaluk as Vice Chair for the fiscal year July 1, 2017 through June 30, 2018. M/C
19. DISCUSS PRE-LICENSING COURSE AND SALESPERSON PRE-LICENSING EXAMINATION PASS/FAIL RATES. Chair Schlosser opened discussion on the number of hours required for pre-licensing across the country as shown on a report from ARELLO®. Jill Beck, CEO for the North Dakota Association of REALTORS® (NDAR) stated that NDAR has a

task force researching this and that the task force will suggest collaborating with the Commission on this process.

20. ARELLO® LEADERSHIP CONFERENCE REPORT: COMMISSIONER YOUNGBERG.  
Commissioner Youngberg submitted a written report.
21. ARELLO® MID-YEAR CONFERENCE REPORTS: COMMISSIONERS BREIDENBACH, CYMBALUK, AND YOUNGBERG AND EXECUTIVE DIRECTOR JERGENSON.  
Commissioners Breidenbach and Youngberg and Executive Director Jergenson provided written reports. Commissioner Cymbaluk gave a verbal report.
22. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the April 12, 2017 meeting. A list of those waivers is attached to these minutes.
23. DISCUSS COMMISSION PRIORITIES. The Commissions priorities will be discussed at their next meeting.
24. RECOGNITION OF COMMISSIONER YOUNGBERG'S 20 YEARS OF SERVICE TO THE COMMISSION. Chair Schlosser recognized Commissioner Youngberg for his leadership and commitment to public service. Each Commissioner thanked him for his time on the Commission.
25. OTHER BUSINESS.
  - a. Executive Director Jergenson stated that she had received an email inquiring if the ALTA statement meets the requirements in NDAC § 70-02-03-07. This will be discussed at the next Commission meeting when legal counsel is present.
  - b. Executive Director Jergenson informed the Commission that an NSF check had been received from Angela M. Mueller and that she had been advised to make restitution by June 15, 2017. Commissioner Cymbaluk moved, seconded by Commissioner Louser that Ms. Mueller's license will be put on inactive status effective June 15, 2017 if payment is not received by 5 pm today (June 15, 2017). M/C
  - c. Commissioners discussed the possibility of scanning a license when it is issued and emailing it to the broker so the licensee doesn't have to wait until the license is received in the mail. The original license would be mailed and would replace the scanned copy when received. Staff will check with legal counsel.
  - d. Commissioners discussed having their next meeting in late July or August.

There being no further business Chair Schlosser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson  
Executive Director