

June 28, 2012
8:00am CT
North Dakota Real Estate Commission
Peace Garden Room
State Capitol
600 E Boulevard Ave
Bismarck ND

Present: Jerry Schlosser/Chair, Diane Louser/Vice Chair, Kris Sheridan/Member, Roger Cymbaluk/Member, Jerry Youngberg/Member, Patricia M. Jergenson/Executive Director, Constance Hofland/Special Assistant Attorney General, Doug Bahr/Solicitor General

1. CALL MEETING TO ORDER. Chair Schlosser called the meeting to order. All members were present. Guests were welcomed.
2. ADDITIONAL AGENDA ITEM: Commissioner Louser and Special Attorney General Constance Hofland left the room during the discussion of the proposed draft of the Findings of Fact Conclusion of Law and Order for Complaint # 2011-07 NDREC v Scott Louser. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk that the letter of reprimand and the proposed findings of fact remain as drafted. M/C (3 aye, 1 nay/Commissioner Youngberg).
3. APPROVE MINUTES OF MARCH 28, 2012 AND JUNE 14, 2012 MEETINGS. Commissioner Louser and Constance Hofland rejoined the meeting. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve the March 28, 2012 minutes as mailed. M/C Commissioner Sheridan moved, seconded by Commissioner Louser to approve the minutes of June 14, 2012. M/C
4. FINANCIAL REPORT. Executive Director went over the November 2011 financial report and explained that the credit card renewals were still being posted. Commissioner Sheridan noted her concern of due diligence in not having current financials. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the November 2011 financial report. M/C
5. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND.
 - a. Complaint #2011-09 Travis W. Ystass v Lunette Lip Sando. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Louser to follow the recommendation of Ms Hofland and dismiss this complaint. M/C
 - b. Complaint #2012-04 NDREC v Michael J Bullinger. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Youngberg moved, seconded by Commissioner Louser to follow the recommendation of Ms Hofland and dismiss this complaint. M/C

- c. Complaint #2012-07 Steven Martens v Lori L. Henderson. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Louser to set this complaint for hearing. M/C
 - d. Complaint #2012-08 Nick J Kathrein v Phyllis J Christianson. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to follow the recommendation of Ms Hofland and dismiss this complaint. M/C
 - e. Complaint #2012-09 NDREC v Robert L. Pearson. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Robert L. Pearson in which Mr. Pearson agrees to pay a fine of \$250 and \$280 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the Stipulation and Settlement Agreement as presented by Ms Hofland. M/C
 - f. Complaint #2012-10 NDREC v Norman D. Steinle. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Norman D. Steinle in which Mr. Steinle agrees to pay a fine of \$250 and \$280 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the Stipulation and Settlement Agreement as presented by Ms Hofland. M/C
 - g. It was suggested that an article be included in the newsletter regarding resale of property by the buyer before the property has closed.
 - h. Discussion of the unclaimed property statute will be placed on a future agenda.
6. REVIEW LICENSE APPLICATIONS.
- a. Commissioners reviewed the application of Jacob T. Ansberry for a salesperson license. Mr. Ansberry appeared before the Commission to discuss items of concern on his credit report. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table Mr. Ansberry's application until he provides a letter from The Village, 2 letters of reference and proof that the judgment is paid. M/C
 - b. Commissioners reviewed the application of Thomas J. Barnhart for a non-resident salesperson license. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Mr. Barnhart to sit for the non-resident state portion of the real estate license examination. M/C
 - c. Commissioners reviewed the application of Deanna S. Davick for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Ms. Davick to sit for the salesperson real estate license examination. M/C
 - d. Commissioners reviewed the application of Richard W. Fairchild for a non-resident broker license. Commissioner Louser moved, seconded by Commissioner Youngberg to approve Mr. Fairchild to sit for the non-resident broker real estate license exam. M/C
 - e. Commissioners reviewed the application of Charles B. Klinkhammer for a broker license. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Mr. Klinkhammer to sit for the broker real estate license exam. M/C
 - f. Commissioners reviewed the application of Matthew R. Lockwood for a reciprocal salesperson license. Mr. Lockwood appeared before the Commission to discuss items of concern on his application. Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve the reciprocal salesperson license for Mr. Lockwood. M/C

- g. Commissioners reviewed the application of Elizabeth A. Morgan for a non-resident broker license. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Ms Morgan to sit for the non-resident broker real estate license exam. M/C
 - h. Commissioners reviewed the application of Kalee B. Sherlock for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to table Ms. Sherlock's application until she provides a financial plan explaining how her debts are going to be paid off and a letter from her bank. M/C
 - i. Commissioners reviewed the application of Mark C. Walczak for a non-resident broker license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Walczak to sit for the non-resident broker real estate license exam. M/C
 - j. Commissioners reviewed the application of Gary F. LaFramboise for a non-resident broker license. Mr. LaFramboise appeared before the Commission to discuss items of concern on his credit report. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Mr. LaFramboise to sit for the non-resident broker real estate license exam. M/C
7. REVIEW GENERAL AUDIT PROPOSAL SUBMITTED BY MAHLUM GOODHART, PC. Commissioners reviewed the proposal submitted by Mahlum Goodhart, PC to conduct the annual audit of the Commission's financial statements. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the proposal. M/C
8. REVIEW TRUST ACCOUNT AUDIT PROPOSAL SUBMITTED BY MAHLUM GOODHART, PC. Commissioners reviewed the proposal submitted by Mahlum & Goodhart PC to conduct audits of the real estate brokerage trust accounts in the state of North Dakota for 2012-2013. Commissioner Sheridan moved, seconded by Commissioner Louser to accept the proposal as submitted. M/C
9. REVIEW PROPOSED OFFICE LEASE AND ALTERNATIVE OFFICE LOCATIONS. Executive Director Jergenson shared information regarding alternative office space available in Bismarck and an email from the Commission's current landlord offering to extend our current lease for 3 years with an option for an additional 2 years at the current rent. Commissioner Sheridan moved, seconded by Commissioner Youngberg to accept the lease option offered by Mr. Deisz and that a letter be sent to him from Chair Louser stating so and requesting that the security of the building be improved and the office painted. M/C
10. REVIEW PROPOSAL SUBMITTED BY AMP (APPLIED MEASUREMENT PROFESSIONALS) FOR LICENSE EXAMINATIONS. Executive Director Jergenson noted that the proposed agreement for July 1, 2012 through June 30, 2015 contains no changes from our current agreement. Staff also noted that a RFP has not been conducted however Jergenson provided Commissioners with information from Alabama and North Carolina stating that they found AMP superior to other exams. Those 2 states RFP's were reviewed by commission staff, at least one commissioner and 3 to 5 educators. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve a 3 year contract with AMP. M/C
11. REVIEW PROPOSED 2012/13 BUDGET. The 2012/13 proposed budget was reviewed in detail. Staff was asked to research if any states have different license fees for resident v non-resident licenses. Jergenson also updated the Commissioners on the status of the new database. Commissioners revised the proposed executive director's salary. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the July 1, 2012 – June 30, 2013 budget as amended. M/C

12. ELECTION OF 2012/13 OFFICERS. Commissioner Youngberg moved, seconded by Commissioner Sheridan to nominate Commissioner Louser as Chair and Commissioner Cymbaluk as Vice Chair for 2012/13. M/C
13. 2012 CONTINUING EDUCATION AUDIT REPORT. Executive Director Jergenson stated that all licensees audited have responded to the continuing education audit and met the continuing education requirements for 2011.
14. RISC 2012 1ST QUARTER REPORT. RISC (Rice Insurance Services Company) provided the Commission with the 1st quarter errors and omissions insurance claims report for informational purposes.
15. NOTIFICATION FROM WILD HORSE RANCH AT LAKE HATTIE OF CANCELLATION OF REGISTRATION UNDER SUBDIVIDED LANDS ACT. Commissioners reviewed an email from The Brooks Companies General Manager Alan Olson requesting the cancellation of their application for registration.
16. ARELLO MIDYEAR CONFERENCE REPORTS: COMMISSIONERS CYMBALUK AND YOUNGBERG AND EXECUTIVE DIRECTOR JERGENSEN. Written reports were filed.
17. 2012 ARELLO DISTRICT 2 & 3 CONFERENCE REPORTS: COMMISSIONERS CYMBALUK AND YOUNGBERG AND EXECUTIVE DIRECTOR JERGENSEN. Written reports were filed.
18. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the last meeting. A list of those waivers is attached to these minutes.
19. COMMISSION GOALS. It was recommended to add the following: a session to go over the basics for Commissioners (i.e.: proper protocol, handling of calls, what is expected of a Commissioner, etc.)
20. OTHER BUSINESS.
 - Staff received a fax of a closing statement from a broker which did not disclose disbursements with the question if this was a “legal” closing statement. The definition of legal is not in the parameter of the Commission to determine and Administrative Rule 70-02-03-07 was referenced.
 - Commissioners discussed a suggestion to monitor the payment of commissions by closing companies to see if unlicensed persons are receiving commissions. No action was taken.
 - Commissioners had previously tabled the application for a salesperson license for Alicia Fettig until she provided an explanation of her credit situation. Ms Fettig has done so. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to allow Ms. Fettig to sit for the salesperson examination. M/C
 - Staff was asked to check with entities providing online education to see if they can offer or would consider offering pre-licensing education online.

There being no further business Chair Schlosser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director