

November 2, 2016
8:30 AM
North Dakota Real Estate Commission
Peace Garden Room
State Capitol
600 E Boulevard Ave
Bismarck ND 58501

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 Louser attended the meeting by conference call.
2. REVIEW MINUTES OF AUGUST 11, 2016 MEETING. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the August 11, 2016 minutes as presented. M/C
3. PRESENTATION OF AUDIT OF THE COMMISSION'S FINANCIAL STATEMENTS FOR FISCAL YEAR 2015/16: RHONDA MAHLUM, MAHLUM GOODHART PC. Rhonda Mahlum presented a review of the audit conducted of the Commission's financials stating that the audit had received a clean opinion. Commissioner Cymbaluk moved, seconded by Commissioner Louser to accept the audit as presented. M/C
4. JULY AND AUGUST FINANCIAL REPORTS. Executive Director Jergenson presented the July and August financial reports. Commissioner Youngberg moved, seconded by Commissioner Breidenbach to accept the financial reports for July and August as presented. M/C
5. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND.
 - a. Complaint #2016-07 NDREC v Kipp A. Harris: Stipulation and Settlement Agreement. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Kipp A. Harris in which Mr. Harris agrees to pay a fine of \$300 and \$160 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the Stipulation and Settlement Agreement as ratified and presented by Ms. Hofland. M/C
 - b. Complaint #2016-21 NDREC v Joseph R. Kachuroi: Stipulation and Settlement Agreement. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Joseph R. Kachuroi in which Mr. Kachuroi agrees to pay a fine of \$300, \$200 legal/investigative costs and provide proof that he has brought his advertising into compliance within 30 days of Notice of Entry of the Order. Commissioner Cymbaluk moved, seconded by Commissioner

- Youngberg to accept the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
- c. Complaint #2016-22 James G. McCreary v Brandon Raboin and Natalie A. Deutsch: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Louser moved, seconded by Commissioner Youngberg to dismiss this complaint. M/C The Commission discussed reviewing complaints involving properties not in North Dakota. The consensus was that complaints involving property out of state can be submitted for investigation.
 - d. Complaint #2016-23 Thomas J. Altstadt v Ronald P. Boe: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the recommendation of Ms. Hofland and dismiss this complaint. M/C
 - e. Complaint #2016-24 Timothy A. Cavett v David W. Keller: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Breidenbach moved, seconded by Commissioner Youngberg to accept the recommendation of Ms. Hofland and dismiss this complaint. M/C
 - f. Complaint #2016-25 Christopher B. Wyatt v Susan F. Crockett: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint and noted that there is a pending lawsuit involving the complainant and respondent. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table this complaint until the court process is completed. M/C
 - g. Complaint #2016-27 Rachel Ochs/Troy Bucholz v Julie A. Nelson and Kent A. Tweten: 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. M/C
6. ADVERTISING ISSUE. Staff has received emails from a couple of licensees who expressed that they believed the advertising rule regarding “prominence” is not being handled in a consistent manner. Special Attorney General Hofland provided information showing that the complaints involving the company name not being prominent were all different scenarios and in her opinion the Commission had been consistent. There was discussion on the definition of prominent and staff was asked to place it on the agenda for continued discussion. Staff will contact ARELLO® to see if they have a white paper on the subject.
7. REVIEW LICENSE APPLICATIONS.
- a. Commissioners reviewed the application of Justin C. Dukek for a reciprocal salesperson license. Mr. Dukek joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to deny the application of Mr. Dukek due to items on his credit report. M/C Commissioner Breidenbach left the meeting at this point.
 - b. Commissioners reviewed the application of John S. Frahm for a reciprocal broker license. Mr. Frahm joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to approve Mr. Frahm’s application subject to him providing verification to staff that the item on his credit report has been paid. M/C

- c. Commissioners reviewed the application of Jane E. Hadley for a salesperson license. Ms. Hadley joined the meeting by conference call to answer any questions the Commissioners may have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Ms. Hadley to sit for the salesperson license examination. M/C
- d. Commissioners reviewed the application of Wesley S. Libner for a salesperson license. Commissioner Louser moved, seconded by Commissioner Cymbaluk to deny the application of Mr. Libner due to the fact that he is on probation. M/C Mr. Libner joined the meeting by conference call after the Commissioners had voted on their motion.
- e. Commissioners reviewed the application of Jonathon D. McGrath for a salesperson license. Mr. McGrath joined the meeting in person to answer any questions the Commissioners may have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Mr. McGrath to sit for the salesperson examination subject to him providing verification to staff that his bankruptcy has been discharged and payments on his credit report are current. M/C
- f. Executive Director Jergenson informed the Commission that the application of Tabettha M. Melby for a reciprocal salesperson license was withdrawn by the firm she had applied through.
- g. Commissioners reviewed the application of Corey D. Neseimier for a salesperson license. Commissioner Louser moved, seconded by Commissioner Cymbaluk to deny the application of Mr. Neseimier due to items on his credit report. M/C
- h. Commissioners reviewed the application of Tracey L. Reslock for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table Ms. Reslock's application until she comes before the Commission and provides information relating to the federal tax lien on her credit report. M/C
- i. Commissioners reviewed the application of Lilly B. Rick for a salesperson license. Ms. Rick joined the meeting by conference call to answer any questions the Commissioners may have. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Ms. Rick to sit for the salesperson examination subject to her providing verification to staff that the item in collection on her credit report has been paid. M/C
- j. Commissioners reviewed the application of Leland A. Roggenkamp for a broker license. Mr. Roggenkamp joined the meeting by conference call to answer any questions the Commissioners may have. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Mr. Roggenkamp to sit for the ND broker license examination. M/C
- k. Commissioners reviewed the application of Brian R. Tulibaski for a salesperson license. Mr. Tulibaski joined the meeting by conference call to answer any questions the Commissioners may have. Commissioner Louser moved, seconded by Commissioner Cymbaluk to approve Mr. Tulibaski to sit for the salesperson license examination. M/C
- l. Commissioners reviewed the application of Brandon M. VanDusen for a salesperson license. Mr. VanDusen joined the meeting in person to answer any questions the Commissioners may have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Mr. VanDusen to sit for the salesperson examination subject to him providing verification to staff that he has completed his probation. M/C

- m. Commissioners reviewed the application of Jason L. Wisniewski for a salesperson license. Mr. Wisniewski joined the meeting in person to answer any questions the Commissioners may have. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to approve Mr. Wisniewski to sit for the salesperson license examination. M/C
 - n. Commissioners reviewed the application of Jason R. Ziegler for a reciprocal broker license. Mr. Ziegler joined the meeting by conference call to answer any questions the Commissioners may have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table Mr. Ziegler's application until he provides to the Commission for review three (3) letters of reference (bank, business associates) and at that meeting Commissioners will have further discussion on the status of his probation. M/C
 - o. Executive Director Jergenson informed the Commission that the application of Cory J. Zimmer will not be reviewed at this meeting as he has not been able to provide the information as requested.
8. REVIEW REQUEST FOR WAIVER OF NATIONAL PORTION OF SALESPERSON LICENSE EXAMINATION FROM APRYL I. ROSE. Commissioners reviewed the application for a salesperson license of Apryl I. Rose. Ms. Rose joined the meeting by conference call to answer any questions the Commissioners may have. Ms. Rose requested a waiver from taking the national portion of the salesperson real estate license examination stating that she has already taken and passed it in 3 other states. Staff has verified that this is true. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to waive the national portion of the salesperson real estate license for Ms. Rose, she is required to take the state portion of the examination. M/C
9. REVIEW APPLICATIONS FOR FIRMS WITH SIMILAR NAMES. (NDAC 70-02-01-13).
- a. Alliance Realty: Commissioners reviewed the application for a reciprocal real estate firm license from Alliance Realty LLC in Burnsville, MN. Mo Sweiden, broker of Alliance Realty LLC, joined the meeting by conference call to participate in the discussion. Staff noted that currently there are 3 companies licensed in North Dakota with a similar name. Commissioner Youngberg moved, seconded by Commissioner Louser to deny the firm application in accordance with NDAC 70-02-01-13. M/C
 - b. Realty 5: Commissioners reviewed correspondence from John Anderson asking the Commission to approve the name "Realty 5" for a real estate firm license for his new firm which will be in Fargo, ND. Mr. Anderson, who will be the broker for Realty 5, joined the meeting by conference call to participate in the discussion. Staff noted that currently there are 2 companies licensed in the Fargo area with similar names. Commissioner Youngberg moved, seconded by Commissioner Louser to deny the request to use the firm name Realty 5 in accordance with NDAC 70-02-01-13. M/C There was continued discussion on a name for the new company and Mr. Anderson asked if Five Realty would be approved by the Commission. It was the consensus of the Commissioners that Five Realty would be acceptable.
10. REVIEW TABLED APPLICATION OF RACHEL R. HELTON. Ms. Helton's application for a salesperson license was tabled by the North Dakota Real Estate Commission at its meeting on August 11, 2016 pending documentation explaining why she did not disclose criminal charges on her application and the issues on her credit report. Ms. Helton has provided the documentation as requested for your review as well as letters of recommendation. Ms. Helton joined the meeting on conference call to answer any questions the Commissioners may have. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Ms. Helton to sit for the salesperson real estate license examination. M/C

11. NSF CHECK RECEIVED FROM JESSE SCHEEL. Executive Director Jergenson informed the Commission that upon withdrawing his application for a non-resident license Mr. Scheel immediately stopped payment on his check for the application fee. No additional action is required at this time.
12. REVIEW OF NON-COMPLIANCE WITH REQUEST FOR TRUST ACCOUNT DOCUMENTS. Executive Director Jergenson provided the Commission with a timeline of requests for trust account information from Leo M. Wakefield and his non-response. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to file a complaint against Mr. Wakefield for not responding to requests for trust account documents. M/C Ms. Jergenson noted that the other 2 brokers who had not responded did provide the requested documentation before this meeting.
13. DISCUSS 2018 MANDATORY TOPIC. Commissioners reviewed a letter from the North Dakota Association of REALTORS® (NDAR) which had the following suggestions for mandatory topics: diversity, advertising, agency, and professional courtesy. Nancy Willis, NDAR, discussed the suggestions and the reasons for them with the Commission. Other possible topics discussed were: broker and agent responsibilities, a course that address' issues that come before the Commission and courses that are more practical. Continued discussion on a 2018 mandatory topic will be placed on the agenda for further discussion.
14. SUBDIVIDED LAND APPLICATION FOR REGISTRATION OF COPPER CREEK VILLAS & CABINS AT DISNEY'S WILDERNESS LODGE: DISNEY VACATION DEVELOPMENT INC. Executive Director Jergenson presented the application of Copper Creek Villas & Cabins at Disney's Wilderness Lodge for Commission approval. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the application of Copper Creek Villas & Cabins at Disney's Wilderness Lodge. M/C
15. ARELLO@ ANNUAL CONFERENCE REPORTS: COMMISSIONERS BREIDENBACH, CYMBALUK AND YOUNGBERG AND EXECUTIVE DIRECTOR JERGENSON. Written reports were submitted by all in attendance.
16. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the August 11, 2016 meeting. A list of those waivers is attached to these minutes.
17. DISCUSS COMMISSION PRIORITIES. The Commission's list of priorities was reviewed.
18. OTHER BUSINESS. There was no other business.

There being no further business Chair Schlosser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director