



North Dakota Real Estate Commission

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March 31, 2016
8:30 A.M.
Bank of North Dakota
Leadership Hall Room 201
1200 Memorial Highway
Bismarck, ND 58501

Members

Chair
Jerome C. Youngberg
Grand Forks

Vice Chair
Jerry Schlosser
Bismarck

Diane R. Louser
Minot

Roger M. Cymbaluk
Williston

Kris Sheridan
 Fargo

Patricia M. Jergenson
Executive Director

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

1. CALL MEETING TO ORDER. Chair Youngberg called the meeting to order. Roll call was taken, Commissioners Youngberg, Schlosser, Sheridan, and Cymbaluk were present in person and Commission Louser was present by conference call.
2. MINUTES OF NOVEMBER 19, 2015, DECEMBER 14, 2015, AND FEBRUARY 9, 2016 MEETING. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve the November 19, 2015 minutes as presented. M/C Commissioner Louser moved, seconded by Commissioner Cymbaluk to approve the December 14, 2015 minutes as presented. M/C Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the February 9, 2016 minutes as presented. M/C
3. FINANCIAL REPORTS: OCTOBER, NOVEMBER, DECEMBER 2015 AND JANUARY, FEBRUARY 2016. Executive Director Jergenson presented the financial reports for October, November, and December 2015 and January and February 2016. Commissioner Sheridan moved, seconded by Commissioner Schlosser to accept all the financial reports as presented. M/C. Rhonda Mahlum defined account #221 Deferred Inflows as an item on the budget to cover possible shortage for retirement. This account is used as a reserve for retirement. Ms. Mahlum also addressed the overage charge on the audit for the Commission's 2014/15 financials was due to the new accounting procedures for account #221 Deferred Inflows. Commissioner Cymbaluk moved, seconded by Commission Schlosser to adjust the cost of the audit to reflect the \$600 increase. M/C
4. TRUST ACCOUNT AUDITS WITH RECURRING ISSUES OR DID NOT PROVIDE ACCESS TO THEIR TRUST ACCOUNT FOR AN AUDIT: RHONDA MAHLUM, MAHLUM GOODHART PC.
 - a. Huskey, James – ERA American Real Estate. Rhonda Mahlum presented to the Commission that James Huskey, the broker for ERA American Real Estate had the recurring issue of not using buyer agency agreements. Commissioner Sheridan moved, seconded by Commissioner Louser to file a complaint with the

option of a Stipulation and Settlement Agreement of \$300 in fines and \$280 in attorney fees. M/C

- b. Lingenfelter, Lori – Bekk’s Realty, Inc. Rhonda Mahlum presented to the Commission that Lori Lingenfelter, the broker of Bekk’s Realty did not meet with auditors as scheduled for the trust account audit. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to file a complaint with the option of a Stipulation and Settlement Agreement of \$300 in fines and \$280 in attorney fees and to produce the records to be audited. M/C
 - c. Martinson, Brenda – RE/MAX Legacy Realty. Rhonda Mahlum presented to the Commission that Brenda Martinson, the broker of RE/MAX Realty has the recurring issue of the timeliness of earnest money deposits. Commissioner Schlosser moved, seconded by Commissioner Louser to file a complaint with the option of a Stipulation and Settlement Agreement of \$300 in fines and \$280 in attorney fees. M/C
 - d. Johnson, Marc – Newmark Grubb Johnson & Associates. Rhonda Mahlum presented to the Commission that Marc Johnson, the broker of Newmark Grubb Johnson & Associates had the recurring issues of not documenting deposits and unable to determine if earnest money is timely deposited. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to file a complaint with the option of a Stipulation and Settlement Agreement of \$300 in fines and \$280 in attorney fees. M/C
5. SALESPERSON/BROKER ASSOCIATE CORPORATION REGISTRATIONS. Executive Director Jergenson present to the Commission that during the Fall 2015 audits there were 45 audits done and the auditors found that commissions were being paid to 23 unregistered entities. The Commission requested a list of the agents who have not registered their entities since they have been notified at the next meeting.
6. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND:
- a. Complaint #2015-10 Tasha Steinbach v Richard Theurer and Tracey Hoff: Stipulation and Settlement agreements. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreements from both Richard Theurer and Tracey Hoff. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve the Stipulation and Settlement Agreements for both Richard Theurer and Tracey Hoff in which each agrees to pay \$750 in fines and \$480 in legal and investigation costs as presented by Ms. Hofland. M/C
 - b. Complaint #2016-01 Conrad and Jean Moe v Dorothy Pudwill: Memorandum. Commissioner Schlosser recused himself from discussion and voting. 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 a hearing with the option of a stipulation of revocation of Ms. Pudwill’s license. M/C
 - c. Use of drones. Special Assistant Attorney General Connie Hofland presented her research of the use of drones. The use of drones are not allowed for commercial use at this time. She noted that NDAR is a great resource for information on drones.
7. REVIEW LICENSE APPLICATIONS:
- a. Commissioners reviewed the application of Nicholas E. Adams for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Mr. Adams to sit for the salesperson license examination. M/C
 - b. Commissioners reviewed the application of Robert W. Arnold for a salesperson license. Mr. Arnold joined the meeting in person to discuss any questions the

- Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Mr. Arnold to sit for the salesperson license examination pending receipt of documentation provided to staff that the items in collection have been satisfied and a payment plan for child support has been set up with the creditor. M/C
- c. Commissioners reviewed the application of William O. Bahny for a nonresident broker license. Mr. Bahny joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Bahny to sit for the state portion of the broker license examination. M/C
 - d. Commissioners reviewed the application of Jason L. Becker for a salesperson license. Mr. Becker joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Becker to sit for the salesperson license examination. M/C
 - e. Commissioners reviewed the application of Christopher W. Braun for a salesperson license. Mr. Braun joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Mr. Braun to sit for the salesperson license examination. M/C
 - f. Commissioners reviewed the application of Michael D. Carpenter for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve Mr. Carpenter to sit for the salesperson license examination pending receipt of documentation by staff that his first payment has been made on the item in collection on his credit report and that his probation has been finished. M/C
 - g. Commissioners reviewed the application of Jerod M. Clark for a salesperson license. Mr. Clark joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Louser moved, seconded by Commissioner Cymbaluk to approve Mr. Clark to sit for the salesperson license examination pending receipt of documentation by staff that the item on his credit report has been paid. M/C
 - h. Commissioners reviewed the application of Aaron Cofell for a salesperson license. Mr. Cofell joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Sheridan moved, seconded by Commissioner Louser to table Mr. Cofell's application pending receipt of three letters of reference from non-family members to be reviewed by the Commission. M/C.
 - i. Commissioners reviewed the application of Larry D. Danduran for a salesperson license. Mr. Danduran joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Danduran to sit for the salesperson license examination. M/C
 - j. Commissioners reviewed the application of Darrell W. Desilets for a salesperson license. Mr. Desilets joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve Mr. Desilets to sit for the salesperson license examination. M/C
 - k. Commissioners reviewed the application of Bradley R. Henke for a salesperson license. Mr. Henke joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by

Commissioner Sheridan to approve Mr. Henke to sit for the salesperson license examination. M/C

1. Commissioners reviewed the application of Marcus J. Hovey for a salesperson license. Mr. Hovey joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Hovey to sit for the salesperson license examination. M/C
- m. Commissioners reviewed the application of Drew W. Kjolberg for a salesperson license. Mr. Kjolberg joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to table Mr. Kjolberg's application until 12 months after the disposition hearing and his application will come back before the Commission for review. M/C
- n. Commissioners reviewed the application of Christin L. McDonald for a salesperson license. Ms. McDonald joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve Ms. McDonald to sit for the salesperson license examination. M/C
- o. Commissioners reviewed the application of Jennifer L. Mansour for a broker license. Ms. Mansour joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve Ms. Mansour to sit for the broker license examination. M/C
- p. Commissioners reviewed the application of Jessie A. Michelson for a salesperson license. Ms. Michelson joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Ms. Michelson to sit for the salesperson license examination. M/C
- q. Commissioners reviewed the application of Evan B. Pegors for a salesperson license. Mr. Pegors joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Pegors to sit for the salesperson license examination. M/C
- r. Commissioners reviewed the application of Phyllis A. Rittenbach for a salesperson license. Ms. Rittenbach joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Ms. Rittenbach to sit for the salesperson license examination. M/C
- s. Commissioners reviewed the application of John J. Sackman III for a salesperson license. Mr. Sackman III joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to deny Mr. Sackman III's application due to issues on his credit report. M/C
- t. Commissioners reviewed the application of Ryan D. Schmoll for a salesperson license. Mr. Schmoll joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve Mr. Schmoll to sit for the salesperson license examination pending receipt of three letters of reference to be approved by staff. M/C

- u. Commissioners reviewed the application of Tyson M. Smith for a salesperson license. Mr. Smith joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Smith to sit for the salesperson license examination pending receipt of three letters of reference by non-family to be approved by staff. M/C
 - v. Commissioners reviewed the application of Aaron Templin for a reciprocal salesperson license. Mr. Templin joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Sheridan moved, seconded by Commissioner Schlosser to deny Mr. Templin's application until his probation is complete. M/C
 - w. Commissioners reviewed the application of Nicole E. Watson for a salesperson license. Ms. Watson joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve Ms. Watson to sit for the salesperson license examination. M/C
8. APPEAL OF DENIED SALESPERSON LICENSE APPLICATION OF NATALIE J. MOE. Natalie J. Moe's application for a salesperson license was reviewed at the February 9, 2016 Commission meeting. The Commission moved to deny Ms. Moe's application due to issues on her credit report. Ms. Moe joined the meeting in person to appeal the denial of her application. The consensus of the Commission is the denial stands.
9. REVIEW DOCUMENTATION RECEIVED REGARDING BROKER LICENSE APPLICANT MICHAEL L. MARCOTTE. Michael L. Marcotte's application for a broker license was reviewed at the February 9, 2016 Commission meeting. Mr. Marcotte provided letters and information regarding his listings and closed transactions. Mr. Marcotte joined the meeting by conference call. Ms. Tweten declined to participate. Commissioner Sheridan moved, seconded by Commission Louser to approve Mr. Marcotte to sit for the broker license examination. M/C
10. DISCUSS RECIPROCAL LICENSE STATUS WHEN A LICENSEE HAS A BROKER LICENSE IN A RECIPROCAL STATE, CURRENTLY HAS A RECIPROCAL SALESPERSON IN NORTH DAKOTA, AND THEIR ND RECIPROCAL LICENSE APPLICATION HAS BEEN TABLED. Executive Director Jergenson presented to the Commission a current reciprocal salesperson whose reciprocal broker application was tabled at the October 30, 2015 Commission meeting due to issues on the credit report. The consensus of the Commission was to contact the agent to see if the credit issues have been resolved and report back to the Commission at their next meeting.
11. APPLICATION FOR FIRM LICENSE: WHITETAIL PROPERTIES REAL ESTATE, LLC DBA WHITETAIL TROPHY PROPERTIES. Executive Director Jergenson presented to the Commission the firm application for Whitetail Properties Real Estate, LLC. They are unable to register that name with the North Dakota Secretary of State's office because a ND business already has a similar name. The North Dakota Secretary of State's Office is able to do a "doing business as" Whitetail Trophy Properties Real Estate. Commission Cymbaluk moved, seconded by Commissioner Schlosser to grant a waiver in this situation to have the nonresident license issued to Whitetail Trophy Properties Real Estate based on their resident license White Tail Properties Real Estate, LLC. M/C
12. REVIEW TABLED APPLICATION OF NASH C. KOCH. Mr. Koch's application for a salesperson license was tabled at the February 9, 2016 Commission meeting until Mr. Koch provided verification in writing regarding his probation and the charges on his background report. Mr. Koch provided the requested documentation to the Commission. Commissioner

- Cymbaluk moved, seconded by Commissioner Schlosser to approve Mr. Koch to sit for the salesperson license examination. M/C
13. LICENSE STATS. Executive Director Jergenson presented to the Commission how many active and inactive agents are still licensed after the 2016 renewal period.
 14. LICENSE APPLICANT STATS. Executive Director Jergenson presented to the Commission statistics on how many new applications are being submitted every month and how many need to go before the Commission for approval.
 15. DENIED APPLICANT STATS. Executive Director Jergenson presented to the Commission the reasons why applications are being denied.
 16. AMP BUYOUT. Executive Director Jergenson presented to the Commission that AMP has been bought out by PSI. At this time no changes have been made until they work out the services to be provided by “AMP a PSI business.” The Commission could be looking at a need to find a different provider for the license examinations in the future.
 17. MONTHLY APPROVED AMP TEST CODE STATS. Executive Director Jergenson presented to the Commission the statistics on how many test codes are being issued every month to take the AMP examination.
 18. AMP REAL ESTATE LICENSE JOB ANALYSIS SUMMARY REPORT:
[HTTP://WWW.GOAMP.COM/PUBLICATIONS/CANDIDATEHANDBOOKS/2015-REAL-ESATATE-SUMMARY-REPORT.PDF](http://www.goamp.com/publications/candidatehandbooks/2015-real-estate-summary-report.pdf). Executive Director Jergenson present to the Commission that there has been a reallocation of the questions in the national examination topics. The new test will start being administered April 19, 2016.
 19. CONTINUING EDUCATION AUDIT REPORT. The Commission reviewed the continuing education audit report. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to file a complaint against the agents and their brokers who have not turned in any continuing education hours for the audit with the option of a Stipulation and Settlement Agreement of \$300 in fines and attorney fees. M/C Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to file a complaint against Amelita Elizan and her broker for not completing the full nine hours of continuing education hours with the option of a Stipulation and Settlement Agreement of \$300 in fines and attorney fees. M/C Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to file a complaint against the agents and their brokers who took continuing education after the November 15, 2016 deadline with the option of a Stipulation and Settlement Agreement of \$300 in fines and attorney fees. M/C Commissioner Sheridan moved, seconded by Commissioner Louser to file a complaint against the agents and their brokers whose renewals were signed prior to the completion of continuing education hours, missing the mandatory course, and more than eight hours of continuing education taken in one day with the option of a Stipulation and Settlement Agreement of \$300 in fines and attorney fees. M/C
 20. RECIPROCAL AGREEMENT WITH NEBRASKA. Commissioners reviewed the reciprocal agreement with Nebraska. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to end the reciprocal agreement with Nebraska July 1, 2016.
 21. E&O 2015 4TH QUARTER REPORT & INFORMATION ON POLICY LIMITS. Commissioners reviewed the RISC E&O 2015 4th quarter report. Executive Director Jergenson presented the information the Commission requested at the last meeting. The consensus of the Commission is to keep the current policy limits.
 22. DISCUSS RECOMMENDATIONS FOR 2017 MANDATORY COURSE TOPICS FROM NDAR. NDAR discussed having a continuing education course on “diversity” for possible topic for the 2017 mandatory course. Consensus of the Commission is that there is not enough time to develop a mandatory course and have it ready by November 16, 2016.

Mandatory course topics will be placed on a future agenda and the Commission will seek input from NDAR on possible topics for 2018.

23. EXPLANATION FROM MAHLUM & GOODHART ADDRESSING OVERAGE CHARGE ON THEIR AUDIT OF THE COMMISSION'S 2014/15 FINANCIALS. The explanation of overage charge on the audit of the Commission's 2014/15 financials was handled earlier in the agenda.
24. ARELLO LEADERSHIP RETREAT REPORTS: COMMISSIONER YOUNGBERG AND EXECUTIVE DIRECTOR JERGENSON. Commissioners Youngberg and Executive Director Jergenson filed written reports for the ARELLO Leadership Retreat.
25. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the November 19, 2015 meeting. A list of those waivers are attached to these minutes.
26. DISCUSS COMMISSION PRIORITIES. Commissioners discussed the Commission priorities.
27. OTHER BUSINESS.
 - a. Commissioner Sheridan will be retiring on June 30, 2016. The June meeting will be held in Fargo.
 - b. Executive Director Jergenson stated to the Commission that the new 2016 license law books have been printed.
 - c. The Commission discussed having a possible May meeting to review license applications.

There being no further business Chair Youngberg adjourned the meeting.

Respectfully submitted,



Amanda Renner
Administrative Assistant