



North Dakota Real Estate Commission Meeting Minutes -- FINAL
8:30 a.m., Tuesday, November 12, 2024
1120 College Dr Ste 204, Bismarck, ND

www.realestatend.org

Present: Scott Breidenbach, chair; Sandra Meyer, vice chair; members: Steven Bitz, Steven Link, Tate Cymbaluk. Also present: David Phillips, special assistant attorney general; staff: Jeanne Prom, executive director; Rob Yost, CPA/auditor; Cieana Schneider, licensing specialist. Members of the public also present by Teams.

1. Call to order, roll call and determination of quorum.

Chair Mr. Scott Breidenbach called the meeting to order at 8:32 a.m. Ms. Jeanne Prom, executive director, called the roll, with a quorum of all members present.

2. Review and approval of agenda.

Mr. Tate Cymbaluk moved to approve the agenda as presented. Mr. Steven Link seconded. Motion carried by unanimous voice vote.

3. Review of applicants.

A. Review of request for reinstatement – Amanda Brantl

Ms. Prom and Ms. Amanda Brantl, present by Teams, explained Ms. Brantl's request to reinstate her resident salesperson license, which was cancelled for failure to renew by January 15, 2024. After discussion, Mr. Link moved to waive the pre-licensure course and require Ms. Amanda Brantl to complete a background check and 24 continuing education credits before sitting for the national and state salesperson examination. Mr. Steven Bitz seconded. Roll call vote: ayes -- Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach; nays – none. Motion carried 5-0.

B. Review of reciprocal salesperson applicant – Roger Hahn

Ms. Cieana Schneider, licensing specialist, and Mr. Roger Hahn, present by Teams, explained Mr. Hahn's background and bankruptcy that required commission review. After commission discussion, Mr. Bitz moved to approve the reciprocal salesperson license application from Mr. Roger Hahn. Mr. Link seconded. Roll call vote: ayes -- Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach; nays – none. Motion carried 5-0.

4. Update on complaint – 2024-05 -- Rich Olson v. Katherine Keirnan

Mr. David Phillips, special assistant attorney general, explained his investigation of 2024-05 – Rich Olson v. Katherine Keirnan. The commission discussed the findings and Mr. Phillips' recommendation to dismiss the complaint. Mr. Link moved to dismiss 2024-05 – Rich Olson v. Katherine Keirnan. Mr. Cymbaluk seconded. Roll call vote: ayes -- Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach; nays – none. Motion carried 5-0.

5. Update from management.

A. Policies/procedures – military/spouse. Ms. Prom reported the commission and PSI refunded application, background and credit check, and testing fees charged to 3 military/spouse applicants who applied after federal law U.S.C.A. § 4025a. took effect, but before the commission amended their policy at the August 22, 2024 commission

meeting. The Department of Justice (DOJ) requested this action. Mr. Phillips reported that the DOJ told him they were very satisfied with the commission's motion language to update the policy, passed at the last meeting, and the DOJ is sending this language to other states as a model.

Policies/procedures – child support enforcement -- Ms. Prom reported that the current license renewals require licensees to review and, if necessary, update their date of birth and Social Security number, in order to capture complete and correct information to report to the ND Department of Health and Human Services Child Support. (NDCC 50-09-08.2(1)(g)(1)(d), 50-09-08.2(2), and NDCC 50-09-08.6)

Policies/procedures – wholesaling -- The commission reviewed updated guidance on wholesaling and disclosure of wholesaling, and a Statewide Forms Request to ND Association of Realtors (NDAR) with language from the new wholesaling law to include in a disclosure form, addendum, within an existing agreement, or in some other written communication. The commission agreed by consensus to post the guidance on the commission website and to submit the forms request to NDAR.

B. Labor & Commerce reports.

Labor Commissioner study of occupational licensing boards – Ms. Prom reported that the commission does not have reciprocity with all border states, but otherwise meets 5 of 6 recommendations the Labor Commissioner reported to the interim legislative Workforce Committee in October.

Commerce study – Ms. Prom reported that the Department of Commerce's recent aggregate report from the survey of all licensing boards, previously emailed to the commissioners, is very positive.

C. Potential legislation.

The commission discussed draft language for changes to license law, NDCC 43-23, presented by Mr. Phillips and Ms. Prom. The commission agreed by consensus to proceed with final language to: 1) amend the license renewal date language from specific to general language, 2) amend license standards to allow not just salesperson applicants, but also broker applicants, to take the license exam before completing pre-licensing education, 3) add to the definition of "broker" specific language describing referring -- when an individual shares compensation with another licensed individual, 4) amend wholesaling language to require disclosure if wholesaling any real property, and 5) add language to allow the commission to issue cease and desist orders for non-licensed activity, and to use prima facie evidence as a standard of proof in issuing an order, after discussing different powers, due processes, and enforcement.

The commission also discussed board membership language, and agreed by consensus to leave the language as is in current law. The commission discussed, but did not make any final decision, on having one or more bills. The commission directed Ms. Prom to contact Scott Louser, a licensee and legislator who was the primary sponsor of past bills on real estate license law, to gauge his interest in sponsoring 2025 legislation. The ND Legislative Council does not require legislator sponsors, and limits agency bill sponsorship to 1 legislator for pre-filed agency bills. Mr. Louser had inquired if the

commission had any potential legislation. The commission directed Ms. Prom and Mr. Phillips to update the cease and desist language and solicit comments from States Attorneys and the Office of Attorney General.

Chair Breidenbach, Commissioner Cymbaluk and Ms. Prom will participate in the NDAR Government Affairs Committee virtual meeting Nov. 19 to discuss potential legislation. The commission directed Ms. Prom to schedule a short special meeting for final action on the draft language in time to meet the December 5, 2024 pre-filing deadline with the ND Legislative Council. The commission discussed that some statute changes may prompt rules changes after the legislative session.

D. 2024-2025 priorities.

After discussion, Mr. Link moved to require a form and a \$100 fee for the change in a firm's designated broker. Mr. Bitz seconded. Motion carried by unanimous voice vote.

The commission discussed sole proprietorships, which is the way 10-15% of all licensed firms are organized. Sole proprietorships, like all other firms that are partnerships, companies, or corporations, can have more than 1 licensee and location (branches). Historically, the sole proprietor's broker license also served as the firm license, and the sole proprietor only had to renew the broker license. No firm license was issued, so sole proprietors were not charged to renew a firm. Recently sole proprietors are asking for a separate firm license, which may be needed as documentation in some real estate transactions. Mr. Cymbaluk moved to require annual firm renewals and fees for all sole proprietorships beginning with the renewals in fall 2025, for 2026 licenses. Ms. Sandra Meyer seconded. Discussion: This does not take effect for the 2025 renewals occurring now. Motion carried by unanimous voice vote.

The commission discussed changing the rule that requires continuing education (CE) courses be a minimum of 2 hours. Mr. Link moved to change the current administrative rule that requires CE to be at least 2 hours. Mr. Cymbaluk seconded. Motion carried by unanimous voice vote. The commission discussed having CE courses be at least 1 hour, and that CE courses should not require a test.

Ms. Prom reported that online courses on the mandatory topics for the next CE cycle, Nov. 16, 2024 through Nov. 15, 2025, are already available. At previous meetings, the commission set 2 mandatory topics for all licensees, whether brokers, broker associates, or salesperson. Mandatory topics are 1) vacant property and other real estate scams and frauds, and 2) diversity, equity, and inclusion (DEI). Staff will update the website with the information after Nov. 15, 2024.

After a discussion, the commission agreed by consensus on the protocol for staff when a licensee reports possible noncompliance with advertising rules by another licensee. Ms. Prom will direct the licensee making the report to have their broker speak to the potentially noncompliant licensee's broker. After this broker-to-broker conversation occurs, if there is an unresolved issue, then staff can research the issue.

E. Trust account waivers. Ms. Ciana Schneider provided a written report of recent trust account waivers.

- F. Trust account audits. Mr. Rob Yost and the commission discussed current and recently completed trust account audits. Mr. Yost reported that staff has secured The CE Shop to create a 1-hour trust account management course for brokers, as requested by the commission at their August 22, 2024 meeting. The commission discussed making this a mandatory course in the future. Mr. Yost also reported that \$4,000 from the education fund was used for continuing education-related staff time in the past fiscal year, as previously approved by the commission.
- G. License numbers.
The commission reviewed license numbers. 2024 salesperson applications are 26% below applications received by this time in 2023, but license numbers are higher than last year. 2024 renewal numbers are tracking with 2023 renewals.
- H. Next meetings -- 2024-2025
Chair Breidenbach reviewed the meeting schedule, noting the next meetings are January 30, and March 27, 2024, but can be changed if commissioners are not available.
6. Financial reports – July and August 2024
Mr. Yost presented the financial reports and highlights for July and August 2024. Mr. Link moved to approve the July and August 2024 financial reports as presented. Mr. Cymbaluk seconded. Motion carried by unanimous voice vote. The agency audit of the 2023-2024 fiscal year has begun. The commission discussed costs of audits, which is on the commission's list of 2024-2025 priorities.
7. Minutes – August 22, 2024
Mr. Cymbaluk moved to approve minutes from the August 22, 2024 meeting as presented. Mr. Bitz seconded. Motion carried by unanimous voice vote.
8. Other – next meeting – January 30, 2025
The commission did not discuss any other business.

Adjourn

Chair Breidenbach adjourned the meeting at 10:25 a.m.