

April 13, 2006
12 noon
Mezzanine 3
Holiday Inn
Fargo, ND

Present: Jerry Youngberg/Chair, Jerry Schlosser/Vice Chair, Diane Louser/Member, Roger Cymbaluk/Member, Kris Sheridan/Member, David Reich/Legal Counsel, Patricia M. Jergenson/Secretary Treasurer

1. CALL MEETING TO ORDER. Chair Jerry Youngberg called the meeting to order and welcomed those present.
2. APPROVE MINUTES OF JANUARY 26, 2006. Commissioner Sheridan moved, seconded by Commissioner Louser to accept the minutes of January 16, 2006 as presented. M/C
3. APPROVE FINANCIAL REPORTS FOR JANUARY, FEBRUARY AND MARCH 2006. Secretary Treasurer Jergenson presented the financial reports noting that the Recovery Fund accounts at the Bank of North Dakota will be changed to higher interest yielding accounts and moving the general accounts is being researched. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to accept the financial reports for January, February and March 2006. M/C
4. REVIEW FORMAL COMPLAINTS PENDING BEFORE THE ND REAL ESTATE COMMISSION.
 - a. Dave Reich reviewed the stipulated agreement before the Commissioners for Case #2005-01A – a complaint filed by the Commission against Tom McKinnon for which a hearing had been set today. The stipulated agreement states that Mr. McKinnon will pay \$1500 in legal costs and take 6 hours of education in the subject area of business management in the real estate office. Mr. Reich recommended the Commissioners approve the stipulated agreement. Commissioner Cymbaluk moved, seconded by Commissioner Louser to accept the stipulated agreement as presented. M/C
 - b. Case #2005-05 James A. Ramsey v. Gary Kramlich. Mr. Reich noted that this case has been granted a court continuation and a new court date has not been set at this time. Commissioner Schlosser moved, seconded by Commissioner Sheridan to table Case#2005-05. M/C

- c. Case# 2006-01 Glen Valley v Richard Olson and Paul Everson. Mr. Reich presented the factual background of his investigation regarding this complaint. Commissioner Sheridan moved, seconded by Commissioner Schlosser to table this complaint in order to allow Commissioners time to review legal counsel's report. M/C
 - d. Registration of salesperson organization. The following points were discussed regarding NDCC 43-23-05.1: the statute clearly states that the salesperson's corporation or LLC is solely owned, it does not address teams, intent was to allow 1 person to organize, and NDAR may have to address future revision to the statute. Commissioners reviewed the March 2006 revised application form.
5. TASK FORCE ON REBATES/INDUCEMENTS UPDATE. Commissioner Sheridan is chairing this task force. She reported that they had met prior to this meeting and discussed the following items: clarifying definition (license law doesn't directly talk about rebates/inducements), members will continue to research when it was established that a commission could be shared with a party to the transaction, and they will be working towards making sure that license law is consistent with practice. Commissioner Sheridan suggested that the entire Commission be part of the task force as well.
6. REQUEST FOR HEARING ON DENIED APPLICATIONS.
 - a. Upon review of a written statement provided by Shane A. Dockter Commissioner Cymbaluk moved, seconded by Commissioner Louser to allow Mr. Dockter to sit for the real estate examination. M/C
 - b. Scott Gleave appeared before the Commission with his potential broker, Greg Krueger, regarding the denial of his salesperson application. He also provided a written statement. Commissioner Sheridan moved, seconded by Commissioner Schlosser to allow Mr. Gleave to sit for the exam. M/C
 - c. Commissioners reviewed written documentation provided by Randy L. Wiese regarding pending tax issues. It is the consensus of the Commissioners to stay with the previous decision to deny Ms Wiese's application for a reciprocal salesperson license.
 - d. Ryan J. Thayer appeared before the Commission regarding the denial of his application for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to table a decision until Mr. Thayer provided letters of recommendation and the Commission has reviewed them. M/C
7. REVIEW APPLICATIONS FOR SALESPERSON LICENSE.
 - a. Commissioners reviewed the application of Charlotte R. Erickson for a salesperson's license. Commissioner Cymbaluk moved, seconded by Commissioner Louser to deny Ms Erickson's application based on criminal charges on her application. M/C
 - b. Commissioners reviewed the application of Karie A. Fischer for a salesperson's license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to deny Ms Fischer's application based on her credit report showing existing judgments. M/C
 - c. Commissioners reviewed the application of Kae M. Heisler for a salesperson's license. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve Ms Heisler to sit for the examination. M/C

- d. Commissioners reviewed the application of Beverly C. Kocher for a salesperson's license. Commissioner Louser moved, seconded by Commissioner Sheridan to approve Ms Kocher to sit for the examination. M/C
 - e. Commissioners reviewed the application of Douglas D. Kocourek for a salesperson's license. Commissioner Schlosser moved, seconded by Commissioner Louser to deny Mr. Kocourek's application based on felony convictions on his application. M/C
 - f. Commissioners reviewed the application of Karen M. Kouba for a salesperson's license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to allow Ms Heisler to sit for the examination. M/C
 - g. Commissioners reviewed the application of Susan K. Pollak for a salesperson's license. Commissioner Louser moved, seconded by Commissioner Sheridan to approve Ms Pollak to sit for the examination. M/C
 - h. Commissioners reviewed the application of Stacy R. Smith for a salesperson's license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to request more information from Ms Smith regarding her arrest for a NSF check. M/C
 - i. Commissioners reviewed the application of Amber L. Strand for a salesperson's license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to deny Ms Strand's application as she is still making restitution on her misdemeanor charges. M/C
 - j. Commissioners reviewed the application of Cory J. Theuninck for a salesperson's license. Commissioner Schlosser moved, seconded by Commissioner Louser to deny Mr. Theuninck based on the criminal charges on his application. M/C
 - k. Commissioners reviewed the application of Shari L. Zimbelman for a salesperson's license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Ms Zimbelman to sit for the examination. M/C
8. NSF CHECKS RECEIVED FROM DEAN AHMANN AND CYNTHIA JAYNE BERTSCH. Secretary Treasurer Jergenson informed Commissioners that Dean Ahmann's NSF check for his 2006 license renewal was covered by his broker and that he has not responded to any correspondence sent him. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to set a hearing regarding Mr. Ahmann. M/C Commissioners reviewed documentation provided by Ms Bertsch regarding the NSF check received for her 2006 license renewal. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to accept the explanation provided by Ms. Bertsch. M/C
9. REVIEW LIST OF LICENSEE RENEWALS WITH FINANCIAL ISSUES. Staff compiled a list of 2006 license renewals which contained information regarding affirmative answers to questions on the renewal form involving financial issues, misdemeanors and felonies. The purpose in reviewing these items is for the protection of the public – will these issues impair the ability of the licensee to conduct business in an appropriate manner. Commissioners requested that the report be expanded to include the explanation/information provided by the licensee. Legal Counsel Dave Reich stated that the Commission has the right to say that the Commission has concerns about this and ask the licensee to explain the situation in greater detail.

10. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve the request for trust account waivers as attached to these minutes. M/C
11. ARELLO MID-YEAR MEETING UPDATE. Commissioners Youngberg and Cymbaluk and Secretary Treasurer Jergenson attended the ARELLO Mid-Year meeting in Jacksonville, FL. Some of the items discussed during the meetings were: licensing education requirements, administrator resource training, banks in real estate, DOJ on minimum standards, ARELLO foundation, and home inspection.
12. COMMISSION GOALS. The list of the Commission's goals was reviewed. Commissioners will do some brainstorming at an upcoming meeting for ideas of what should be on our web site.
13. OTHER BUSINESS:
 - a. Old business: Staff noted that the lease for the office will be extended for an additional 2 years and that the landlord is considering a longer lease but has yet to make a decision on the lease amount.
 - b. Old business: the Commission office has not received a response from The McKenzie Group a Division of Fargohomes regarding their company name.
 - c. A demo of the new simulation broker test will be scheduled with AMP for the June meeting.
 - d. Secretary Treasurer Jergenson requested the Commission give Administrative Assistant Karla Mittleider a \$500 bonus for the work Karla did while she was on sick leave. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to give Ms Mittleider a \$500 bonus. M/C It has come to the attention of Secretary Treasurer Jergenson that the salary for the Administrative Assistant position is not what the job market pays and the Commission could loose their staff person as a result. Discussion. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to increase the salary for the Administrative Assistant to \$29,000 annually to be effective May 1, 2006. M/C
 - e. NAR has amended a Standard of Practice in their Code of Ethics that allows "shopping of offers". Legal counsel will be asked to research if this is within ND license law.
 - f. Possible future legislative issues were discussed. They included home inspector licensing and background checks of license applicants.
 - g. The next Commission meeting will be scheduled for early June.

There being no further business Chair Youngberg adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Secretary Treasurer