

April 27, 2011  
10:00am Central Time  
North Dakota Real Estate Commission  
Bismarck Public Library  
515 N 5<sup>th</sup> St  
Meeting Room C  
Bismarck ND

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

1. CALL MEETING TO ORDER. Chair Jerry Youngberg called the meeting to order. All Commissioners were present.
2. APPROVE MINUTES OF FEBRUARY 2, 2011 MEETING. Commissioner Cymbaluk moved to approve the February 2, 2011 minutes as presented, seconded by Commissioner Louser. M/C
3. APPROVE FINANCIAL REPORTS. Executive Director stated that the entering of the credit card transactions for online renewals was not complete at this time therefore there were no financial reports.
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
  - a. Complaint #2010-14 Carol R Berg v Aisha Vadell. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved seconded by Commissioner Schlosser to dismiss this complaint based on the recommendation of legal counsel. M/C
  - b. Complaint #2011-01 Scott W. Block v Janet M. Wright. 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
  - c. Complaint #2011-02 Barbara A. Grande v Rodney G. Richter. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved seconded by Commissioner Louser to set this complaint for hearing. M/C

- d. Complaint #2010-10 NDREC v Mitzi Bestall. Executive Director Jergenson stated that Ms Bestall has applied for and received her non-resident North Dakota Broker license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to dismiss the complaint against Ms Bestall. M/C
- e. Complaint #2010-11 NDREC v Affiliated Business Solutions. Special Assistant Attorney General Connie Hofland had nothing to report at this time.
5. ADVERTISEMENT BY AN ATTORNEY – IS THIS WITHIN THE EXEMPTION FOR ATTORNEYS? NDCC § 43-23-07. Commissioners reviewed an advertisement by an attorney submitted to the Commission office by a broker questioning if the attorney was acting outside the exemption provided in the law. Commissioners asked Ms Hofland to write a letter to the attorney asking the intent of the advertisement.
6. DISCUSS QUESTION POSED BY JAY NELSON IN HIS EMAIL DATED DECEMBER 27, 2010. Mr. Nelson stated that he had become aware of listings in which the expiration date is automatically extended another 30 days unless one of the parties gives the other a 30 day notice. He questioned if this was the intent of NDCC § 43-23-11.1(n). Staff was asked to send a response to Mr. Nelson informing him that if this situation is really occurring it is a violation and he could file a complaint so the Commission could investigate further.
7. PAYMENT OF COMMISSION OR REFERRAL FEES TO AN INACTIVE LICENSEE. Staff was asked to keep this item on the agenda and to gather information from other states, Casey Chapman, and newsletter articles. Staff noted that Senator Judy Lee has been contacted regarding her email on this same topic.
8. LICENSE SEALS. NDCC§43-23-12. Commissioners discussed the need for year seals to be mailed and attached to each real estate license every year. NDCC § 43-23-12 states that licenses must be displayed. Possibilities discussed were to no longer provide year seals, put the expiration date on the license and allow licensees to print their own licenses after renewal. With the development of the new data base now is a good time to research this.
9. ONLINE LEAD GENERATOR – REAL ESTATE LICENSE REQUIRED? Executive Director Jergenson shared 2 emails she had received regarding lead generators. Commissioners asked staff to respond to the emails and request more information regarding the interaction of the lead generators with consumers.
10. NON-RESIDENT LICENSURE: ND ADMINISTRATIVE RULE 70-02-01-06. Staff has seen a large increase in calls regarding non-resident licensure. Executive Director Jergenson provided Commissioners with a scenario of the questions and responses from staff to be sure that staff was responding properly. Commissioners agreed with the way staff was handling the inquiries.
11. REVIEW SALESPERSON LICENSE APPLICATIONS.
  - a. Commissioners reviewed the application of Kimberly J. Blackmum for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Ms. Blackmum to sit for the salesperson

- real estate license examination. M/C
- b. Commissioners reviewed the application of Jeremy J. Deitz for a reciprocal salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve issuing Mr. Dietz a reciprocal salesperson license. M/C
  - c. Commissioners reviewed the application of Walter F. Duff for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Mr. Duff to sit for the salesperson real estate license examination. M/C
  - d. Commissioners reviewed the application of Andrew G. Magrum for a salesperson license. Mr. Magrum appeared before the Commission to discuss his felony, probation and plans for his future. Commissioner Sheridan recused herself from discussion and vote. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to table Mr. Magrum's application until he has completed his probation and provides documentation to the Commission. M/C
  - e. Commissioners reviewed the application of Shanel M. Maragos for a salesperson license. Ms Maragos requested the Commission approve her application pending the closing of her home at which time the tax lien will be paid. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Ms. Maragos to sit for the salesperson real estate license examination once she has provided proof that the liens have been paid. M/C
  - f. Commissioners reviewed the application of Jeffrey J. Olson for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Mr. Olson to sit for the salesperson real estate license examination. M/C
  - g. Commissioners reviewed the application of Jamie R. Pullen for a salesperson license. Mr. Pullen appeared before the Commission to discuss the simple assault charge. Commissioner Louser moved, seconded by Commissioner Sheridan to approve Mr. Pullen to sit for the salesperson real estate license examination. M/C
  - h. Commissioners reviewed the application of Jessie L. Quinn for a salesperson license. Commissioner Louser moved, seconded by Commissioner Sheridan to approve Ms. Quinn to sit for the salesperson real estate license examination. M/C
  - i. Commissioners reviewed the application of Amanda A Senger for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to table Ms Senger's application and request her to provide 2 letters of reference (one from a bank) and conduct a credit check. M/C

12. REVIEW BROKER LICENSE APPLICATIONS.

- a. Commissioners reviewed the application of Jeffrey N. Botnen for a broker license. Commissioner Sheridan recused herself from discussion and vote. Mr. Botnen is requesting the Commission to consider the education he took to receive several designations in the last 20 years as meeting the education requirement to take the broker examination. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to accept the education Mr. Botnen submitted and allow him to sit for the broker real estate examination. M/C
- b. Donna Reign appeared before the Commission to discuss questions regarding her full time status as a salesperson. Commissioner Schlosser moved, seconded by Commissioner Sheridan to allow Ms. Reign to sit for the broker license exam. M/C

13. APPEALS ON DENIED APPLICATIONS.

- a. Ms Bjorge's application was reviewed at the August 26, 2010 Commission at which time the Commission moved to table action on her application until she could provide proof that the judgment against her had been paid in full. Ms Bjorge provided information for review however it did not show that the judgment had been paid. Ms Bjorge asked the Commission to approve her application contingent on her submitting new paperwork. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve Ms Bjorge to sit for the salesperson exam once the correct paperwork has been submitted to the Commission office. M/C
- b. Mr. Lundeen's application was denied at the February 2, 2011 Commission meeting due to the fact that Mr. Lundeen is currently on probation. Mr. Lundeen appeared before the Commission to discuss the Commission's stand on denying an applicant if they are on probation. He was informed that the Commission has been very consistent with not allowing an applicant who is on probation take the real estate exam. It was the consensus of the Commissioners that the denial of Mr. Lundeen's application stand and that he may reapply once he has completed probation. M/C

14. REQUEST FOR REINSTATEMENT OF ND BROKER LICENSE: MERCEDES L.

HOLTE. Ms Holte's broker license was cancelled March 1, 2011 for non-payment of all of her license fees. She requested that the Commission reinstate her license. Staff provided a timeline of communications with Ms Holte. Commissioner Cymbaluk moved, seconded by Commissioner Louser to support the Executive Director's decision to cancel Ms Holte's broker license. M/C

15. 2010 CE AUDIT REPORT. Executive Director Jergenson discussed the results of the continuing education audit noting that the process put into place was working and those licensees found to have had issues with their continuing education took immediate action to rectify the situation.

16. DISCUSS MINIMUM REAL ESTATE EXAM PASSING SCORES AS REQUESTED BY AMP. Larry Fabrey, Senior Vice President of Psychometrics for AMP, joined the meeting via conference call to explain the reasons behind their suggestion to change the passing (cut) score for the national portion of the real estate examination to 70. The state portion of the examination will stay at 75% (40 items, need 30 correct to pass). Commissioner Sheridan moved, seconded by Commissioner Louser to accept the recommended change in cut score for the national portion of the examination to 70. M/C Mr. Fabrey will write an article for the next newsletter about the changes.
17. UPDATE ON DATABASE DEVELOPMENT. Executive Director Jergenson stated that Kevin Leier, Tao interactive, planned to have the database ready for staff to begin testing this week.
18. LEGISLATIVE UPDATE. Executive Director Jergenson noted that the non-agent legislation had passed. Commissioner Schlosser informed the Commission that Casey Chapman has volunteered to work with Ms. Hofland in developing administrative rules to address non-agency. It was the consensus that Ms Hofland, Mr. Chapman and staff work together to develop the administrative rules.
19. REPORT ON 2011 REAL ESTATE LICENSE RENEWALS. Commissioners received statistics for 2011 license renewals and comparisons with previous years. Jergenson also informed Commissioners that all of the completed 2011 online broker renewals had been accidentally deleted from the system and were not retrievable (when the system did a backup it wrote over the prior backup file). Possible options are to request each broker/associate broker to complete a 2011 renewal form again or to do nothing. The consensus of the Commissioners was to leave the situation as is. It was recommended that staff find a way to ensure there is a backup available so this does not happen again.
20. 2011 ONLINE MANDATORY COURSE UPDATE. Executive Director Jergenson informed Commissioners that the University of North Dakota plans to have the mandatory course available online by the end of May. Evaluations from the classroom mandatory course have been largely unfavorable. Commissioners requested staff to email the evaluations to them.
21. REVIEW CORRESPONDENCE FROM DEARBORN DATED FEBRUARY 16, 2011. Dearborn notified the Commission that they are discontinuing offering online courses in North Dakota as it is not financially feasible to continue to do so. Staff noted that McKissock has also withdrawn 4 of their online courses.
22. ARELLO@ MID-YEAR MEETING REPORTS: COMMISSIONERS YOUNGBERG AND CYLBALUK AND EXECUTIVE DIRECTOR JERGENSON. Written reports were filed.
23. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the requests for trust account waivers as attached to these minutes. M/C
24. COMMISSION GOALS. It was decided to add "review of requirements for license display" to the goals.

25. OTHER BUSINESS: Executive Director Jergenson noted that the SD Real Estate Commission director was retiring June 8<sup>th</sup> and suggested that she go to Rapid City, SD prior June 8<sup>th</sup> to firm up arrangements made for the 2012 District 2 & 3 Conference we are co-hosting with them. There are funds allocated in the budget under Staff Travel & Expenses for this.

There being no further business, Chair Youngberg adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson  
Executive Director