

# North Dakota Real Estate Commission

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August 26, 2015

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, Roger Cymbaluk/Member, Patricia M. Jergenson/Executive Director, Constance Hofland/Special Assistant Attorney General

Absent: Kris Sheridan/Member

1. CALL MEETING TO ORDER. Chair Youngberg called the meeting to order. Roll call was taken, Commissioners Youngberg, Schlosser, Louser, and Cymbaluk were present in person. Commissioner Sheridan was absent.
2. MINUTES OF JUNE 30, 2015 MEETING. Commissioner Louser moved, seconded by Commissioner Schlosser to approve the June 30, 2015 minutes as presented. M/C
3. FINANCIAL REPORTS FOR JUNE AND JULY 2015. Executive Director Jergenson presented the financial report for June 2015. Director Jergenson noted the overage of accounts #510 postage, #514 legal fees and investigation costs, #525 office supplies, #528 professional fees, and #531 credit card fees. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve the June 2015 financial report with the overages in accounts #510, #514, #525, #528, and #53. M/C Executive Director Jergenson presented the financial report for July 2015. Commissioner Louser moved, seconded by Commissioner Cymbaluk to approve the July 2015 financial report as presented. M/C
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND: Executive Director Jergenson asked Commissioners if they would like to have the license violation history of a respondent when reviewing the investigative report on a complaint. Commissioner Cymbaluk moved, seconded by Commissioner Louser that all further complaints include past violations when presented to the Commission. M/C.
  - a. Complaint #2014-12 NDREC v Jeffrey M. Reiter, Brian J. Huskey, James D. Huskey & Mitzi Bestall (Stipulated Agreement). Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Jeffrey M. Reiter, James Huskey and Mitzi Bestall in which each agrees to pay a fine of \$300 and \$295

legal/investigative costs within 30 days of Notice of Entry of the Order.

Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C

- b. Complaint #2015-06 NDREC v Andra J. Miller (Stipulated Agreement). Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Andra J. Miller in which Ms. Miller agrees to pay a fine of \$300 and \$280 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Schlosser moved, seconded by Commissioner Louser to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
  - c. Complaint #2015-07 Grant K. Sundet v Brandon M. Raboin, Erik R. Hatch and Angela N. Nelson. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Louser moved, seconded by Commissioner Cymbaluk to dismiss this complaint. M/C
  - d. Complaint #2015-08 Kimberly D. Sutton v Charles "Drew" Wierson. Commissioner Louser recused herself from discussion and voting. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to dismiss this complaint. M/C
  - e. Complaint #2015-09 Biron D. Baker v George "skip T. Duemeland. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Louser to dismiss this complaint. M/C
  - f. Complaint #2015-10 Tasha L. Steinbach v Richard D. Theurer, Jr. and Tracey E. Hoff. Special Assistant Attorney General Connie Hofland presented her results of the investigation of this complaint. Commissioner Louser moved, seconded by Commissioner Cymbaluk to set a hearing for this complaint. Commissioner Schlosser moved, seconded by Commissioner Louser to file a complaint against Olivia Wellenstein, the buyer agent in this complaint (# 2015-10). M/C
  - g. Law License Suspension and Real Estate License Report. Special Assistant Attorney General Hofland informed Commissioners that she had reviewed the Supreme Court decision against Kerry J. Carpenter's law license. Mr. Carpenter also holds a North Dakota real estate broker associate license. In Ms. Hofland's opinion this issue does not reflect a violation of real estate license law.
  - h. Unlicensed Activity Update. Special Assistant Attorney General Hofland gave Commissioners an update on the correspondence she has sent regarding unlicensed activity and the resolution/responses she has received.
5. REVIEW RECURRING TRUST ACCOUNT AUDIT ISSUES
- a. Bradley Haugen/Haugen Farm Realty, Inc. Special Assistant Attorney General Connie Hofland presented her results of the investigation. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to file a complaint against the broker, Bradley M. Haugen for repeat trust account violations. M/C
  - b. Nancy Allen/Midstate Realty LLC. Special Assistant Attorney General Connie Hofland presented her results of the investigation. Commissioner Cymbaluk

moved, seconded by Commissioner Louser to file a complaint against the broker, Nancy Allen for repeat trust account violations. M/C

- c. Increase in the number of findings of commissions being paid to unregistered salesperson/broker associate corporations. NDCC 43-23-05.1. Executive Director Jergenson informed Commissioners that in the last round of trust account audits the auditors found six (6) licensees whose commissions were being paid to a corporation that was not properly registered in accordance with NDCC § 43-23-05.31.
6. UNPAID FINES/LEGAL FEES. Executive Director Jergenson informed the Commission that she had to send letters to 3 licensees reminding them that they had not paid the fines/investigative costs that they had been ordered to pay within the 30 days of the date of the entry of the order in their stipulated agreement. It was the consensus of the Commission after discussion which included input from Special Assistant Attorney General Hofland that future orders will state that if the fines/costs are not paid within 30 days of the order the fine will increase to a stated amount.
7. ADVERTISING ISSUES.
  - a. Review possible advertising violations. The Commission reviewed possible advertising violations by Daniel Companies. Commissioner Cymbaluk moved, seconded by Commissioner Louser to file complaints against William L. Daniel and Kyle W. Holwager offering stipulated agreements to which have been added that proof the advertising violations have been corrected is to be provided within 30 days and the fine will doubled if not paid within 30 days of the Order. M/C
  - b. Discuss the timeframe in which an advertising violation must be corrected. The Commission discussed the timeframe in which advertising violations must be corrected. The Commission determined that verifying be added to the order requiring proof of the advertising violation has been corrected within 30 days of the order and if sufficient proof has not been received fines and legal fees will be doubled.
8. REVIEW LICENSE APPLICATIONS:
  - a. Commissioners reviewed the application of Nicholas E. Adams for a salesperson license. Mr. Adams joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Adams to sit for the salesperson license examination. M/C
  - b. Commissioners reviewed the application of Mary J. Baumgartner for a salesperson license. Ms. Baumgartner joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve Ms. Baumgartner to sit for the salesperson license examination pending the items on her credit report have been paid and documentation is provided to staff. M/C
  - c. Commissioners reviewed the application of Nicole A. Beaton for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Ms. Beaton to sit for the salesperson license examination. M/C
  - d. Commissioners reviewed the application of Robert J. Bechhold for a salesperson license. Mr. Bechhold joined the meeting in person to discuss any questions the

- Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve Mr. Bechhold to sit for the salesperson license examination. M/C
- e. Commissioner Cymbaluk recused himself from discussion and voting on this application. Commissioners reviewed the application of Holly A. Cymbaluk for a salesperson license. Commissioner Louser moved, seconded by Commissioner Schlosser to approve Ms. Cymbaluk to sit for the salesperson license examination. M/C
  - f. Commissioners reviewed the application of Tyler W. Doll for a salesperson license. Mr. Doll joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Doll to sit for the salesperson license examination. M/C
  - g. Commissioners reviewed the application of Bonnie J. Domsteen for a salesperson license. Ms. Domsteen joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Ms. Domsteen to sit for the salesperson license examination. M/C
  - h. Commissioners reviewed the application of Andrea L. Freudenberg for a salesperson license. Ms. Freudenberg joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to table Ms. Freudenberg's application pending the items on her credit report have been paid and documentation is provided to the Commission. M/C
  - i. Commissioners reviewed the application of Will L. Gardner for a salesperson license. Mr. Gardner joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve Mr. Gardner to sit for the salesperson license examination. M/C
  - j. Commissioners reviewed the application of Londa M. Hager for a salesperson license. Ms. Hager joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Ms. Hager to sit for the salesperson license examination pending that verification of the tax liens on her credit report have been paid and documentation is provided to staff. M/C
  - k. Commissioners reviewed the application of Nathan L. Halvorson for a salesperson license. Mr. Halvorson joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve Mr. Halvorson to sit for the salesperson license examination. M/C
  - l. Commissioners reviewed the application of Brent K. Hammond for a salesperson license. Mr. Hammond joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Mr. Hammond to sit for the

- salesperson license examination subject to proof that the item in collection on his credit report has been resolved and documentation is provided to staff. M/C
- m. Commissioners reviewed the application of Jenna A. Idland for a salesperson license. Commissioner Louser moved, seconded by Commissioner Schlosser to approve Ms. Idland to sit for the salesperson license examination subject to proof that the item in collection on her credit report has been resolved and documentation is provided to staff. M/C
  - n. Commissioners reviewed the application of Sean B. Kasson for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Kasson to sit for the salesperson license examination. M/C
  - o. Commissioners reviewed the application of Jenna M. Nygaard for a salesperson license. Ms. Nygaard joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Ms. Nygaard to sit for the salesperson license examination. M/C
  - p. Commissioners reviewed the application of Teresa A. Swanson for a salesperson license. Ms. Swanson joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Ms. Swanson to sit for the salesperson license examination subject to proof that the item in collection on her credit report has been resolved and documentation is provided to staff. M/C
  - q. Commissioners reviewed the application of Brian T. Wittich for a reciprocal salesperson license. Mr. Wittich joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve issuing Mr. Wittich's reciprocal salesperson license pending the items on his credit report are resolved and documentation is provided to staff. M/C
9. REVIEW REQUEST FOR WAIVER OF EXPERIENCE AND EDUCATION FOR BROKER LICENSE FROM MATHIAS C. BAASCH. Commissioners reviewed the application of Mathias C. Baasch for a broker license. Mr. Baasch had an active North Dakota broker associate license from May 2009 to December 2012. His license was put on inactive status from December 2012 to March 2014 and cancelled due to nonrenewal. Mr. Baasch joined the meeting by conference call to discuss with the Commission the reasons he should be granted a waiver of the two year requirement as an active salesperson needed to become a broker, as well as a waiver of the 60 hours of the broker education requirement. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve Mr. Baasch's request for a waiver of the two years of experience and the 60 hours of broker level education and allowing him to sit for the broker real estate license examination pending completion of 27 hours of CE, at least 3 of those hours are to be on agency and 3 hours on North Dakota law. M/C
10. REVIEW TABLED APPLICATIONS.
- a. Andrew M. Harr's application for a non-resident broker license was reviewed at the June 30, 2015 Commission meeting. The Commission moved to table Mr. Harr's application until he provided a written explanation as to why the charges which appeared on his background check were not disclosed on his application.

Mr. Harr has provided his written explanation as requested. Commissioner Schlosser moved, seconded by Commission Cymbaluk to approve Mr. Haar to sit for the state portion of the broker examination. M/C

- b. Mitchell H. Holm's application was reviewed at the June 30, 2015 Commission meeting. Since Mr. Holm's failed to appear, his application remained tabled.
- c. James J. Peterson's application for a salesperson license was reviewed at the August 20, 2014 Commission meeting. The Commission moved to table Mr. Peterson's application until he provides documentation regarding arrangements he has made to pay the collection on his credit report. Said documentation has been submitted. Staff requested \$8 from Mr. Peterson to run a current credit report – the new credit report shows the account in question still in collection however the document he submitted states his first payment of \$5 is not due until September 15, 2015. Mr. Peterson joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Peterson to sit for the salesperson license examination. M/C

11. APPEAL DENIAL OF BROKER LICENSE APPLICATION BY RHONDA D.

DEHAAN. The Commission moved to deny Ms. DeHaan's application at the June 30, 2015 Commission meeting. Ms. DeHaan's application for a broker license was denied at the June 24, 2015 Commission meeting due to discrepancies regarding her application, current employment, collection on her credit report and possible unlicensed activity. Ms. DeHaan has provided letters of recommendation and documentation that the item in collection has been paid. Ms. DeHaan joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve Ms. DeHaan to sit for the broker license examination. M/C

12. CORRESPONDENCE RECEIVED FROM ROBERT TIMM. The Commissioners reviewed the correspondence received from Robert Timm and Executive Director Jergenson's letter in response.

13. 2015 CE AUDIT FINAL REPORT. Commissioners reviewed the final 2015 CE audit report. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to file a complaint against licensees and their brokers who did not complete their 2014 CE for false information on their 2015 renewal forms. M/C

14. DISCUSS NEW FEE STRUCTURE. Commissioners discussed the fee structure for all forms and requests received. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to increase the fee of \$10 to \$25 of the Application for Duplicate License form, Branch Office License Application, Certificate of Licensure Request, Change of Address or Name form, and Transfer License form effective September 1, 2015. M/C

15. AMP ADVISORY BOARD REPORT: EXECUTIVE DIRECTOR JERGENSON. Executive Director Jergenson filed a written AMP advisory board report.

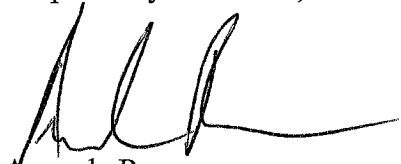
16. DISTRICT 2 AND 3 CONFERENCE REPORT: COMMISSIONER YOUNGBERG AND EXECUTIVE DIRECTOR JERGENSON. Written reports were filed by Commissioner Youngberg and Executive Director Jergenson.

17. REVIEW COMMISSION PRIORITIES. Commissioners reviewed the Commission Priorities.

18. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the May 7, 2015 meeting. A list of those waivers are attached to these minutes.
19. OTHER BUSINESS.
  - a. Executive Director Jergenson informed the Commission that September 15, 2015 is the Administrative Rules Hearing. Executive Director Jergenson shared with the Commission that in 2001 the Hawaii Real Estate Commission moved to have a rule amended, 14 years later it is finally getting approved.
  - b. Executive Director Jergenson asked the Commission if they would like to donate an item for the ARELLO Fundraiser silent auction at the 2015 ARELLO conference in Washington DC. All Commissioners agreed to personally donate.
  - c. Executive Director Jergenson asked the Commissioners how staff should proceed when neither the designated broker, owner of the company or staff of that company do not respond to requests from the Commission office for completion of documentation. It was the consensus to ask Special Assistant Attorney General Hofland for her opinion on abrogation of the broker's duty.
  - d. Executive Director Jergenson suggested to the Commission that agency and broker responsibility courses could be possible future mandatory course topics.

There being no further business Chair Youngberg adjourned the meeting.

Respectfully submitted,



Amanda Renner  
Administrative Assistant