

August 10, 2006  
9:00 AM Conference Call  
North Dakota Real Estate Commission  
200 E. Main Ave. Suite 204  
Bismarck, ND

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

1. CALL MEETING TO ORDER. Chair Jerry Schlosser called the meeting to order. Roll call was taken.
2. HEARINGS. Chair Schlosser turned the meeting over to Special Assistant Attorney General Connie Hofland to present the stipulated agreements to the Commission on behalf of the respondents.
  - a. Complaint # 2006-10 NDREC v. Dean Ahmann. The terms of the stipulated agreement before the Commissioners as presented by Ms Hofland are: Mr. Ahmann will pay a \$500 fine, \$450 in legal fees & investigative costs, a letter of reprimand will be placed in his file, and he will complete a 3 hour education course on ethical practices and professional etiquette. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the stipulated agreement with Mr. Dean Ahmann. M/C
  - b. Complaint # 2006-11 NDREC v. Robert Chambers. The terms of the stipulated agreement before the Commissioners as presented by Ms Hofland are: Mr. Chambers will pay a \$1500 fine, \$600 in legal fees & investigative costs, a letter of reprimand will be placed in his file, and he will complete a 6 hour education course on real estate office management. Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve the stipulated agreement with Mr. Robert Chambers. M/C
  - c. Complaint # 2006-13 NDREC v. Darlene Feil. Ms Hofland noted that Ms. Feil has agreed to stipulate to placement of a letter of reprimand in her file. Commissioner Sheridan moved, seconded by Commissioner Youngberg to table action on this complaint until additional information regarding the listing and sale dates of the transaction in question are known. M/C
  - d. Complaint # 2006-12 NDREC v. Clyde Trautmann. The terms of the stipulated agreement before the Commissioners as presented by Ms Hofland are: Mr. Trautmann will pay a \$2000 fine, \$800 in legal fees & investigative costs, and he will complete a 6 hour education course

on real estate office management. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the stipulated agreement with Mr. Clyde Trautmann. M/C

3. APPROVE MINUTES OF JUNE 14, 2006. Commissioner Sheridan moved, seconded by Commissioner Youngberg to accept the minutes of June 14, 2006 as presented. M/C
4. APPROVE FINANCIAL REPORT FOR JUNE 2006. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to accept the financial report as presented. M/C Staff noted that the checking and savings accounts were moved to the Bank of North Dakota in July to coincide with the new fiscal year.
5. LEGAL UPDATE: CONNIE HOFLAND. Legal counsel Connie Hofland gave the Commissioners a report on the following complaints:
  - a. Complaint # 2006-06 (James D. Nowatzki v. Letitia J. Johnson). Commissioners reviewed the formal complaint filed by Mr. Nowatzki alleging that Letitia Johnson violated her fiduciary responsibilities to the seller and the seller's preferred buyer. Ms. Hofland recommended dismissal of the complaint as there appears to be insufficient evidence of potential violations to proceed to hearing. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to dismiss Complaint # 2006-06. M/C
  - b. Complaint # 2006-07 (Frances Cox v. Daniel Ringuette & Danette Krumweide). Commissioners reviewed the formal complaint filed by Ms Cox alleging that Danette Krumweide acted unethically in her representation of Mr. & Mrs. Cox concerning the sale of their home. Daniel Ringuette was named in the complaint as managing broker responsible for the actions of his salesperson Danette Krumweide. Ms Hofland recommended dismissal of the complaint as the evidence is not sufficient to establish conduct which does not meet the generally accepted standards of expertise, care, or professional ability expected of licensees, nor was there sufficient evidence that either of the respondents breached their duties of loyalty, obedience, disclosure, confidentiality, reasonable care, diligence and accounting. Commissioner Sheridan moved, seconded by Commissioner Louser to dismiss Complaint # 2006-07. M/C
  - c. Complaint # 2006-09 (Thane T. Dockter v. Bud Irwin and Jack Neumann). Commissioners reviewed the formal complaint filed by Mr. Dockter alleging that Bud Irwin, acting as a dual agent, represented the house as in good condition and well maintained but after moving in Mr. Dockter discovered that the house had "a slight mold/fungi problem". Ms Hofland recommended dismissal of the complaint as there is insufficient evidence to establish that either Bud Irwin or Jack Neumann made any substantial or willful misrepresentation concerning the property. Neither is there sufficient evidence to establish that they made false promises. Commissioner Youngberg moved, seconded by Commissioner Sheridan to dismiss Complaint # 2006-09. M/C

Ms Hofland told the Commissioners that Complaint #'s 2006-05 and 2006-08 are currently under investigation and she has recently received 2 new complaints for investigation.

Commissioners Sheridan and Louser noted that they will need to abstain from discussion and action on Complaint # 2006-03. Commissioner Sheridan will also abstain from discussion

on Complaint # 2006-04.

Secretary Treasurer Jergenson noted that Jerry Kettelson has been appointed as our Special Assistant Attorney General to conduct work for the Commission when Ms Hofland has a conflict. Currently Mr. Kettelson is conducting investigations on Complaints # 2006-04 (Doug Adam v. Curt Tjon) and # 2006-03 (Doug, Stan & Reed Opland v. Sheldon Gudmunson).

6. REVIEW DEPARTMENT OF JUSTICE SURVEY. Commissioners discussed the purpose of the survey and the concerns of the Federal Trade Commission regarding competition advocacy in the field of real estate. Staff will submit our response to the survey.
7. REVIEW WEB SITE PROPOSALS. Secretary Treasurer Jergenson presented proposals from 3 web site developers. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve iNet Technologies to develop the web site for the real estate commission. M/C
8. REQUEST FOR REVIEW REGARDING CANCELLED APPLICATIONS. Commissioners reviewed a letter they received from both Candous R. Hamdan Christensen and Jonathon Vetsch requesting that their applications for a salesperson license not be cancelled as they had taken and passed the real estate examination in the time allowed by statute but had not notified the real estate commission office of such until they received a letter from Secretary Treasurer Jergenson notifying them that their applications which had been filed in 2005 had been cancelled. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the request of Hamdan Christensen and Vetsch to have their licenses placed on inactive status with the requirement that they take continuing education for the current cycle. Discussion. Motion and second were rescinded. Commissioner Cymbaluk moved, seconded by Commissioner Louser to place the licenses of Candous Hamdan Christensen and Jonathon Vetsch on inactive status and that they each pay the 2006 salesperson license renewal fee. M/C
9. REVIEW APPLICATION FOR SALESPERSON LICENSE WHEN ADDITIONAL INFORMATION WAS REQUESTED. Terrance M. Skjerseth submitted documentation showing that the federal tax lien filed against him has been released and staff noted that the Mr. Skjerseth's insurance license and auction clerking license were both in good standing. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Skjerseth to take the salesperson examination. M/C
10. REVIEW APPLICATIONS FOR BROKER AND SALESPERSON LICENSES.
  - a. Commissioners reviewed the application of Nicholas M. Bobb for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Mr. Bobb to sit for the real estate examination. M/C
  - b. Commissioners reviewed the application of Suzanne M. Caron for a salesperson license. Commissioner Louser moved, seconded by Commissioner Sheridan to approve Ms. Caron to sit for the real estate examination. M/C
  - c. Commissioners reviewed the application of Charolette R. Erickson for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Ms. Erickson to sit for the real estate examination. M/C

- d. Commissioners reviewed the application of Brian R. Jernberg for a reciprocal salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the issuing of a reciprocal salesperson license to Mr. Jernberg. M/C
  - e. Commissioners reviewed the application of Shannon M. Volk Lovdahl for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Ms. Volk Lovdahl to sit for the real estate examination. M/C
  - f. Commissioners reviewed the application of Wade W. Williamson for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Williamson to sit for the real estate examination. M/C
11. REVIEW APPLICATION FOR BROKER LICENSE.
- a. Commissioners reviewed the application of Timothy M. Kerr for a broker license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Kerr to sit for the real estate broker examination. M/C
  - b. Commissioners reviewed the application of Orville G. Tranby for a broker license and his request to be granted a waiver from the requirement of two years of full time real estate experience as a salesperson. Commissioner Sheridan moved, seconded by Commissioner Louser to deny Mr. Tranby's request for a waiver of experience and his application to sit for the real estate broker examination. M/C Mr. Tranby could provide proof of experience if he chose to appeal this denial.
12. REVIEW AUDIT REPORTS.
- a. Commissioners reviewed the audit report and recommendation of the trust account auditors regarding an excess of funds in the amount of \$1050.00 found during the trust account audit of Crary Homes & Real Estate, Inc. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to accept the report and recommendation of the auditors for disposal of the excess funds found in the trust account of Crary Homes & Real Estate, Inc. M/C
  - b. Commissioners reviewed the audit report and recommendation of the trust account auditors regarding \$475.00 in unaccounted for funds and other issues found during the trust account audit of Keller Williams Roers Realty. Keller Williams Roers Realty had also requested that they be allowed to send a check for \$475.00 to RETA as they had been unable to determine where the money had come from. Commissioner Sheridan moved, seconded by Commissioner Youngberg to send a letter to Keller Williams Roers Realty letting them know that the Commission is seriously concerned about the issues that appeared in their audit report and strongly urges them to hire an outside audit and that they can expect to be audited again before the end of the year. M/C
  - c. Commissioners reviewed the audit report regarding the re-audit of Prudential Preferred Properties, Inc. and noted that Larry Louser had hired an accounting firm to conduct a complete audit and they are now operating smoothly. Mr. Louser is to be commended for taking the action he did. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to accept the audit report with no additional recommendations. M/C

- d. Commissioners reviewed the audit report regarding Watne Inc., Realtors and the recommendation that the Commission wait for the audit report on the trust account from the branch office. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table action on the trust account report for Watne, Inc. Realtors until the audit of the branch office has been completed. M/C
  - e. Commissioners reviewed the audit report regarding West Park Realty, LLP and the recommendation of the auditors. Commissioner Sheridan moved, seconded by Commissioner Louser to re-audit West Park Realty, LLP in 3 to 6 months. M/C
13. DISCUSS DEFINITION OF A CONSULTANT. Secretary Treasurer Jergenson asked clarification on how someone can be a real estate consultant without needing a real estate license if they accept monetary payment. The consensus was that a real estate license would be required if the fee received is tied to a commission.
  14. SOUTH DAKOTA STATUTE REVISION REGARDING SALESPERSON ORGANIZATION REGISTRATION. Secretary Treasurer Jergenson provided the Commissioners with verbiage from a newly amended South Dakota statute that would possibly fix the issues that have arisen since NDCC 43-23-05.1 was enacted. This verbiage will be shared with the North Dakota Association of REALTORS®.
  15. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to approve the requests for trust account waivers as attached to these minutes. M/C
  16. REVIEW STUDY CONDUCTED BY THE CONSUMER FEDERATION OF AMERICA. Commissioners reviewed the report received from the Consumer Federation of America in which it is recommended that real estate services be regulated by a state agency or office, independent of the industry based on their belief that practicing real estate brokers and major real estate firms exert too much influence on state regulation of residential brokerage services. ARELLO's response to this report pointed out that almost all occupational licensing boards consist of a majority of industry members and typically one or more public members because licensed practitioners understand the nature and complexity of the industry, the standards of practice, codes of professional conduct and are considered uniquely qualified to administer the licensing program and sit in judgment of their peers.
  17. ARELLO BYLAWS PROPOSALS TO BE VOTED ON AT THE ANNUAL CONFERENCE IN SEPTEMBER. ARELLO proposed bylaw changes were distributed to the Commissioners.
  18. OTHER BUSINESS:
    - a. Commissioners Cymbaluk and Youngberg and Secretary Treasurer Jergenson gave a report on the events at the ARELLO District meeting they recently attended in Oklahoma City, OK.
    - b. Secretary Treasurer Jergenson informed the Commissioners that the lease for the office has been negotiated for an additional 3 years (until July 31, 2009) at the current lease amount. Commissioner Sheridan moved, seconded by Commissioner Youngberg to sign the lease extension as negotiated. M/C
    - c. Each Commissioner received a copy of the 2006/07 finalized budget.
    - d. Future meeting agenda items were discussed. Chair Schlosser and Secretary Treasurer Jergenson will meet the end of August to determine if there should be a

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Commission meeting in Fargo in conjunction with the ND/SD REALTORS®  
convention September 13-15, 2006.

There being no further business Chair Schlosser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson  
Secretary Treasurer