

August 23, 2012  
8:00am CT  
North Dakota Real Estate Commission  
Fort Totten Room  
State Capitol  
600 E Boulevard Ave  
Bismarck ND

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

1. CALL MEETING TO ORDER. Chair Louser called the meeting to order. All members were present. Guests were welcomed.
2. APPROVE MINUTES OF JUNE 28, 2012 MEETING. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve the minutes of June 28, 2012. M/C
3. FINANCIAL REPORTS: DECEMBER 2011 THROUGH JUNE 2012. Executive Director Jergenson went over the financial reports from December 2011 through June 2012. She also noted that accounts #515 Retirement & Health Insurance, #519 Auditing costs, and #522 Miscellaneous Expense were over the budgeted amount and provided an explanation to the Commission for the overage in each account. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the financial reports as presented and approve the overage in account numbers 515, 519, and 522. M/C
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND. Chair Louser recused herself at this time and turned the meeting over to Vice Chair Roger Cymbaluk.
  - a. NDREC v Scott Louser: District Court Appeal. Commissioner Sheridan moved, seconded by Commissioner Youngberg to go into executive session based on the legal authority for attorney consultation on a pending adversarial administrative proceeding of Complaint #2011-07 NDREC v Scott Louser. M/C (NDCC 44-04-19.2 and 44-04-19.1) Vice Chair Cymbaluk noted that the session will be recorded, the commissioners will discuss only the pending administrative appeal and make any final decision (if any) back in the open meeting. Executive session began at 9:27 am. Commissioners came out of the executive session at 9:50 am and Vice Chair Cymbaluk turned the chair back to Chair Louser who then re-adjourned the regular meeting.
  - b. Complaint #2012-12 John Q. Badger v David B. Blumkin. Commissioner Youngberg recused himself from discussion and vote on this complaint. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint Complaint #2012-13 John Q

- Badger v Mavis E. Winkels together. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to dismiss Complaint #2012-12 and 2012-13. M/C
- c. Complaint #2012-13 John Q. Badger v Mavis E Winkels. Handled in item b of these minutes.
  - d. PROPERTY MANAGERS: REAL ESTATE LICENSE REQUIRED? Special Assistant Attorney General Connie Hofland discussed her memo on property management exemption in North Dakota. The Commission will take this information under consideration and discuss it again at a future meeting. It was the consensus not to request an Attorney General opinion. Jill Beck, NDAR CEO stated that she will add this as a discussion item for the NDAR board visits.
  - e. COMMENTS MADE BY COMPLAINANT TO LEGAL COUNSEL AND EXECUTIVE DIRECTOR. Both Ms. Hofland and Ms. Jergenson stated that a complainant had made unsettling remarks to them on different occasions. Executive Director Jergenson spoke to the Attorney General's office for advice on how to handle a situation such as this and did not get very much information. Staff will research a procedure to be used and bring it back to the Commission for further discussion. Special Assistant Attorney Connie Hofland will notify the respondent in the complaint of the situation.
  - f. ADVERTISING QUESTION REGARDING DISCLOSING OWNERSHIP. Special Assistant Attorney Connie Hofland discussed her memo regarding the question posed by the Fargo-Moorhead Area Association of REALTORS®. Ms. Holland's opinion is that yes, if you have any ownership in a property it must be disclosed in advertising.
  - g. Complaint #2012-07 Steven Martens v Lori L. Henderson. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Lori L. Henderson in which Ms. Henderson agrees to pay a fine of \$500 and \$750 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the Stipulation and Settlement Agreement as presented by Ms Hofland. M/C
5. TRUST ACCOUNT FINDINGS: RHONDA MAHLUM, MAHLUM GOODHART PC.
- a. Century 21 Red River Realty, Inc./Haake, Laurel J. Ms. Mahlum reported on recurring violations regarding the trust account of Laurel J. Haake, broker for Century 21 Red River Realty Inc. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to file a complaint against Ms. Haake for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C
  - b. Cooper Realty, LLC/Tranby, Orville G. Ms. Mahlum reported on recurring violations regarding the trust account of Orville G. Tranby, broker for Cooper Realty LLC. Commissioner Sheridan moved, seconded by Commissioner Schlosser to file a complaint against Mr. Tranby for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C
  - c. Country Realty/Jiskra, Jean A. Ms. Mahlum reported on recurring violations regarding the trust account of Jean A. Jiskra, broker for Country Realty. Commissioner Schlosser moved, seconded by Commissioner Youngberg to file a complaint against Ms. Jiskra for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C

- d. Kuenzel Realty LLC/Kuenzel, Derrick M. Ms. Mahlum reported on recurring violations regarding the trust account of Derrick M. Kuenzel, broker for Kuenzel Realty LLC. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to file a complaint against Mr. Kuenzel for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C
  - e. Prudential Crary Real Estate/Crary, Timothy L. Ms. Mahlum reported on recurring violations regarding the trust account of Timothy L. Crary, broker for Prudential Crary Real Estate. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to file a complaint against Mr. Crary for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C
  - f. Revere Real Estate/Vollmer, Leann R. Ms. Mahlum reported on recurring violations regarding the trust account of Leann R. Vollmer, broker for Revere Real Estate. Commissioner Sheridan moved, seconded by Commissioner Youngberg to file a complaint against Ms. Vollmer for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C
  - g. Sagebrush Realty/Steinle Norman D. Ms. Mahlum reported on recurring violations regarding the trust account of Norman D. Steinle, broker for Sagebrush Realty. Commissioner Sheridan moved, seconded by Commissioner Youngberg to file a complaint against Mr. Steinle for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C
6. UNLICENSED ACTIVITY. Commissioners received a packet of information regarding 6 entities that have been reported to the Commission staff as conducting real estate transactions without being properly licensed. The process to be used in dealing with information received regarding unlicensed activity was discussed. The following steps should be taken: executive director should provide the information to Ms. Hofland so she can send a letter to the entity, staff to send out a press release similar to the one the Commission sent out in 1994, publish the press release in the newsletter and also send it to NDAR. Ms. Hofland noted that the Commission does not have a lot of authority in statute and that if found in violation it is considered an infraction.
7. REVIEW LICENSE APPLICATIONS.
- a. Commissioners reviewed the application of Jacqueline K. Andahl for a salesperson license. Commissioner Schlosser recused himself from discussion and vote on this applicant. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Ms. Andahl to sit for the salesperson real estate license examination. M/C
  - b. Commissioners reviewed the application of Sherry L. Bell-Kern for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Ms. Bell-Kern to sit for the salesperson real estate license examination. M/C
  - c. Commissioners reviewed the application of Melissa M. Connaughton for a salesperson license. Ms. Connaughton appeared before the Commission to address the issues on her credit report. Commissioner Sheridan moved, seconded by Commissioner Schlosser to deny Ms. Connaughton's application at this time based on her credit report. M/C

- d. Commissioners reviewed the application of Mary L. DAcerno for a non-resident broker license. Ms. DAcerno appeared before the Commission to discuss items of concern on her credit report. Ms. DAcerno presented a letter from attorney Michael Hickman and 2 letters of reference from clients in Williston. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to allow Ms. DAcerno to sit for the non-resident broker real estate license exam. M/C
  - e. Commissioners reviewed the application of Brandon S. Ehlis for a reciprocal broker license. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to deny Mr. Ehlis application for a reciprocal broker license based on his credit report. M/C
  - f. Commissioners reviewed the application of Ryan B. Haugen for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Haugen to sit for the salesperson real estate license examination. M/C
  - g. Commissioners reviewed the application of Amber D. Kraft for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve Ms. Kraft to sit for the salesperson real estate license examination. M/C
  - h. Commissioners reviewed the application of Todd D. Ramage for a salesperson license. Mr. Ramage appeared before the Commission to address the issues on his credit report. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Ramage's application subject to his providing verification of the removal of the tax liens to the Commission office. M/C (3 ayes: Cymbaluk, Sheridan, Louser 2 nays: Youngberg, Schlosser)
  - i. Commissioners reviewed the application of Timothy A. Sproul for a reciprocal salesperson license. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to table the application of Mr. Sproul until a more accurately completed application is received. M/C
  - j. Commissioners reviewed the application of Scott D. Stockert for a salesperson license. Mr. Stockert appeared before the Commission to address the issues on his background check and credit report. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to table Mr. Stockert's application until he provides letters from his doctor regarding his medication and letters of recommendation from his attorneys who Mr. Stockert stated are now judges to the Commission for review. M/C
8. REVIEW APPEAL OF DENIED APPLICATION OF ED SLATER. Mr. Slater appeared before the Commission in person to appeal the denial of his application for a broker license and a waiver of the 2 years of experience. Mr. Slater also stated that he was going to be an associate broker rather than a broker as stated on his application. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Mr. Slater to take the broker license examination. M/C
9. REQUEST FOR WAIVER OF EXPERIENCE TO OBTAIN BROKER LICENSE.
- a. Sergy Antonyuk joined the Commission meeting via conference call to discuss his request for a waiver of the 2 years as a salesperson. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Antonyuk to take the broker license examination. M/C
  - b. Commissioners reviewed the application and request of waiver of the 2 years of salesperson experience submitted by Bradley S. Williams. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to allow Mr. Williams to sit for the broker license examination providing he has completed all the education as required. M/C

10. MID-AMERICA REAL ESTATE-NORTH DAKOTA/MIKE SIMS: OFFICE NOT AT ADDRESS AS STATED ON APPLICATION FOR LICENSE AND RENEWAL. Executive Director Jergenson provided information to the Commission of efforts to audit Mr. Sims trust account, contact him by mail and telephone only to find out that the address given for the office is a personal residence of someone not associated with the firm. Commissioner Sheridan moved, seconded by Commissioner Youngberg to file a complaint against Mr. Sims. M/C
11. REVIEW OFFICE LEASE CORRESPONDENCE. Staff provided a copy of an email from our landlord Mr. Deisz and a new lease for 1 year. Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve a 1 year lease at our current location 200 E Main Ave, Ste 204, Bismarck. M/C
12. COPIER PURCHASE. Executive Director Jergenson noted that a new copier had been purchased and installed.
13. CORRESPONDENCE DATED 8/6/12 FROM TENNESSEE ENDING RECIPROCAL AGREEMENT EFFECTIVE SEPTEMBER 30, 2012. No action was taken.
14. RISC 2012 2<sup>ND</sup> QUARTER REPORT. RISC (Rice Insurance Services Company) provided the Commission with the 2<sup>nd</sup> quarter errors and omissions insurance claims report for informational purposes.
15. DISCUSS NEXT COMMISSION MEETING DATE. Commissioners agreed that October 17<sup>th</sup> or 18<sup>th</sup>, 2012 would be workable.
16. REVIEW REQUEST FOR TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the last meeting. A list of those waivers is attached to these minutes.
17. COMMISSION GOALS. Executive Director Jergenson is working on compiling information for a refresher training session for Commissioners.
18. OTHER BUSINESS:
  - Executive Director Jergenson noted that she had emailed Michael McAllister of The CE Shop, an online ce provider, regarding his interest in providing an online pre-licensing course. He responded that it has been discussed however it is not something they are considering at this time.
  - Jergenson attended the NDAR Political Affairs Committee meeting and noted that there was an agenda item "Reciprocity of License Recognition". The discussion at that meeting was regarding a reciprocal license situation however Ms. Beck/NDAR CEO noted that they may be looking at non-resident licensing requirements.
  - There will be a separate renewal form for broker associates this year. Staff asked if there were any other suggestions for improvements.

There being no further business Chair Louser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson  
Executive Director