

August 7, 2013
8:00 am Central Daylight Time
North Dakota Real Estate Commission
Office of Administrative Hearings
Conference Room
2911 14th St N. Suite 303
Bismarck ND

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

1. CALL MEETING TO ORDER. Chair Cymbaluk called the meeting to order. All Commission members were present.
2. APPROVE MINUTES OF JUNE 19, 2013 MEETING. Executive Director Jergenson stated that the minutes of the June 19, 2013 were not completed.
3. FINANCIAL REPORT FOR JUNE 2013. Executive Director Jergenson presented the financial report for June 2013. Ms. Jergenson noted that income is over the budgeted amount and expenses are below budget except for accounts #519 Auditing Costs and #522 Miscellaneous Expense. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve the June 2013 financial report as presented and the overage in account #519 Auditing Costs and #522 Miscellaneous Expense. M/C
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND.
 - a. Complaint #2013-13 NDREC v Kenneth B. Bulie and Donald T. McKinnon. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Louser to set the complaint against Kenneth B. Bulie for a hearing. M/C Commissioner Sheridan moved, seconded by Commissioner Schlosser to dismiss the complaint against Donald T. McKinnon. M/C
 - b. Complaint #2013-14 NDREC v Theresa M. Halvorson, Barry E. Halvorson, Anne E. Kallhoff, and Betsy J. Denis. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Youngberg to set this complaint for a hearing. M/C
 - c. Unlicensed activity update. Special Assistant Attorney General Connie Hofland discussed avenues open to the Commission in dealing with unlicensed activity. She proposed that the Commission file injunctions through the district court. The Commission was in agreement. Ms. Hofland will change the letter that is sent to state that the Commission will file for an injunction in district court if a response is not received by the date noted in the letter.
 - d. Memo on appointed agency issue. Special Assistant Attorney General Connie Hofland discussed her memo in regard to the question posed at

an earlier Commission meeting asking if there is a way to allow representation of the seller by the designated broker and representation of the buyer by another appointed agent under the same broker without having to kick in dual agency. It is Ms. Hofland's opinion that there is not a way to accomplish this. Commissioners requested staff to send a copy of the memo to the broker who brought the question forward and to publish it in the next newsletter.

- e. Commissioner Sheridan asked Ms. Hofland to research the standards for limited services.
5. DISCUSS CORRESPONDENCE FROM BARBARA A. GRANDE DATED JULY 23, 2013.
Commissioners discussed the information brought forward regarding a branch office recently opened in Fargo that is not licensed, nor have the licensees been transferred to the branch office, advertising violations regarding the branch office, and a licensee who is advertising not as she is licensed. Commissioner Youngberg moved, seconded by Commissioner Louser to file a complaint against Betsy J. Denis, Jenny Lende, and Jen Mansour. M/C
6. TRUST ACCOUNT AUDIT FINDINGS: LYNNELL RUDE USSATIS/MAHLUM GOODHART PC.
 - a. Ms. Rude reported on recurring violations regarding the trust account of Jack D. Stebbins, broker for Western Edge Realty, Inc. Commissioner Sheridan moved, seconded by Commissioner Louser to file a complaint against Mr. Stebbins for repeated trust account violations offering the abbreviated process with a stipulated agreement. M/C
 - b. Ms. Rude reported on recurring violations regarding the trust account of Blake A. Krabseth, broker for Watne Inc. REALTORS®. Commissioner Youngberg moved, seconded by Commissioner Sheridan to file a complaint against Mr. Krabseth for repeated trust account violations. M/C
7. REVIEW TABLED LICENSE APPLICATIONS:
 - a. Ms. Hartman's (now Sorenson) application for a salesperson license was reviewed at the June 19, 2013 Commission meeting. The Commission moved to table action on her application until Ms. Sorenson provided more information and business references.
Ms. Sorenson provided the information as requested. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Ms. Sorenson to take the salesperson license examination. M/C
 - b. Mr. Perkin's application for a salesperson license was reviewed at the June 19, 2013 Commission meeting. The Commission moved to table action on his application until Mr. Perkins provided 2 references. Mr. Perkin's provided the information as requested. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve
Mr. Perkin's to take the salesperson license examination. M/C
8. REVIEW LICENSE APPLICATIONS:
 - a. Commissioners reviewed the application of Jonathon K. Dahlgren for a salesperson license. Executive Director Jergenson noted that Mr. Dahlgren is currently on unsupervised probation. Commissioner Schlosser moved, seconded by Commissioner Youngberg to deny the application of Mr. Dahlgren based on his criminal background check. M/C ►
 - b. Commissioners reviewed the application of Steve L. Dalen for a reciprocal salesperson license. Commissioner Youngberg moved, seconded by Commissioner Louser to deny the application of Mr. Dalen based on the judgments on his credit report. M/C
 - c. Commissioners reviewed the application of Daisha A. Gillmore for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to deny the application of Ms. Gillmore due to issues on her credit report. M/C
 - d. Commissioners reviewed the application of Michael K. Malais for a non-resident broker license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to deny the application of Mr. Malais due to issues on his credit report. M/C
 - e. Commissioners reviewed the application of Molly E. Ryan for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Ms. Ryan to sit for the salesperson license examination once she has provided proof that the \$33 collection on her credit report has been cleared. M/C

- f. Commissioners reviewed the application of Carl O. Wuestehube for a non-resident broker license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to deny the application of Mr. Wuestehube due to issues on his credit report. M/C
9. APPEAL OF DENIED APPLICATIONS:
 - a. The application of Alton J. Foltyn for a salesperson license was denied at the June 19, 2013 Commission meeting due to items on his background check. Mr. Foltyn sent 2 emails to the Commission regarding the denial of his application. It was the consensus of the Commission to stay with the denial of Mr. Foltyn's application.
 - b. Mr. Kachuroi's application for a non-resident salesperson license was denied at the June 19, 2013 Commission meeting. Mr. Kachuroi had applied for a resident broker license in October 2012 stating he lived in Arnegard, ND (that application was cancelled due to him not completing the paperwork that was required), then in May 2013 he sent in an application for a non-resident salesperson license stating that he lived in AZ with a mailing address in ND. The 2 applications contained conflicting information. Mr. Kachuroi appeared before the Commission in person to appeal the denial of his license application and explain the conflicting information. It was the consensus of the Commission to stay with the denial of Mr. Kachuroi's application.
10. REQUEST FOR WAIVER FOR BROKER LICENSE: JASON L. FRIDRICH. Mr. Fridrich appeared before the Commission to explain why he should be granted a waiver of the 2 years of full time experience as a salesperson and be allowed to take the broker license examination. Commissioner Sheridan moved, seconded by Commissioner Youngberg to deny Mr. Fridrich's request for a waiver of the salesperson experience and to apply the broker license application fee he paid to a salesperson application. M/C
11. REVIEW RISC 2013 2ND QUARTER CLAIMS REPORT. RISC (Rice Insurance Services Company) provided the Commission with the 2nd quarter errors and omissions insurance claims report for informational purposes.
12. ERRORS AND OMISSIONS INSURANCE RFP. Commissioners were in receipt of the RFP's submitted by RISC and Williams Underwriting. Executive Director Jergenson was asked to research references for both companies. Commissioner Sheridan moved, seconded by Commissioner Louser to have Ms. Jergenson check references for both companies, provide them to the Commissioners and the final decision will be made by a vote via email to Ms. Jergenson. M/C
13. REQUEST FOR EXONERATION OF BONDS FOR REGISTERED TIMESHARES. The registration for Club de Soleil was cancelled March 10, 2006 and for Tahiti Village November 11, 2008. The Commission has received a request for signed exoneration bonds for both timeshare registrations as the parent company is going through bankruptcy. Commissioner Sheridan moved, seconded by Commissioner Youngberg to have Executive Director Jergenson sign the exoneration bonds for Club de Soleil and Tahiti Village. M/C
14. ARELLO® DISTRICT 2 & 3 CONFERENCE REPORTS: COMMISSIONERS CYMBALUK, LOUSER, YOUNGBERG AND EXECUTIVE DIRECTOR JERGENSON. Written reports were filed for review.
15. DISCUSS DONATION OF GIFT BASKET TO ARELLO® FOUNDATION FUNDRAISER. Commissioner Youngberg volunteered to bring a basket of North Dakota products to the ARELLO® Conference in Seattle, WA.
16. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the June 19, 2013 meeting. A list of those waivers is attached to these minutes.
17. SCHEDULE NEXT COMMISSION MEETING. Staff will send out an email to the Commissioner to verify October 10, 2013 as the next Commission meeting date.
18. COMMISSION GOALS. The goals of the Commission were reviewed.

19. OTHER BUSINESS:

- a. Commissioners reviewed the broker license application for Lori J. Doerr. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Ms. Doerr to sit for the real estate broker license examination. M/C
- b. Executive Director Jergenson provided Commissioner with copies of certificates of completion for 4 courses totaling 15 hours that Ms. O'Neil submitted for her post-licensing education. In checking with McKissock, the online course provider, it was verified that Ms. O'Neil did take all 4 classes on May 15, 2013. Jergenson totaled the time (as noted on each certificate) that she was actually online and it came to 4 hours and 53 minutes. Commissioners asked staff to notify both ARELLO® and McKissock LP of this incident. Staff was also asked to watch for incidents such as this in the next ce audit.
- c. Executive Director Jergenson discussed with the Commission activities and the website of Brian Huskey advertising as Shale Rock Realty, LLC. Mr. Huskey is licensed as a salesperson in ND under American Property Brokers, LLC. He does also hold a Montana salesperson real estate license. Licensees Jeff Reiter and Connie Baldwin are also advertising as agents with Shale Rock Realty, LLC which is not licensed as a real estate firm in North Dakota. Commissioner Sheridan moved, seconded by Commissioner Youngberg to file a complaint against Brian J. Huskey, Jeffrey M. Reiter, and Connie L. Baldwin. M/C
- d. Executive Director Jergenson shared with the Commission her experiences at the AMP Advisory Board meeting.

There being no further business Chair Cymbaluk adjourned the meeting.

Respectfully Submitted,

Patricia M. Jergenson
Executive Director

► At approximately 10:00 am Jonathon K. Dahlgren barged into the meeting. He acknowledged that he was late and wanted to know what the Commission had determined about his license application. He was told it had been denied and Mr. Dahlgren became very belligerent.