

December 10, 2013
8:00 am
North Dakota Real Estate Commission
1110 College Dr Suite 209
Bismarck ND

Revised January 15, 2014

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. Roll call was taken and all Commissioners were present either in person or on conference call.
2. APPROVE MINUTES OF OCTOBER 10, 2013 AND NOVEMBER 5, 2013 MEETINGS. Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve the minutes of the October 10, 2013 and November 5, 2013 meetings. M/C
3. FINANCIAL REPORTS FOR SEPTEMBER AND OCTOBER 2013. Executive Director Jergenson presented the financial reports for September and October 2013. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the September and October 2013 financial reports. M/C
4. AUDITOR REPORT: RHONDA MAHLUM/MAHLUM GOODHART PC.
 - a. Trust account audit findings.
 - Ms. Mahlum reported on recurring violations regarding the trust account of Lester Lien, broker for Lien Auction & Realty. Commissioner Sheridan moved, seconded by Commissioner Youngberg to file a complaint against Mr. Lien for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C
 - Ms. Mahlum reported on recurring violations regarding the trust account of Norman Streifel, broker for Streifel and Associates. Commissioner Sheridan moved, seconded by Commissioner Louser to file a complaint against Mr. Streifel for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C
 - b. Ms. Mahlum asked the Commission to discuss the timing of the agency disclosure in ND Administrative Rule 70-02-03-15.1(2)(a) stating that the auditors are seeing the agency disclosure to the seller occurring in the listing contract when conducting trust account audits and she was not clear if that was the intent of the rule. It was the consensus of the Commission to review this further before taking any action. Ms. Mahlum was asked to continue to write these incidents up in the audit findings. She was also asked to provide an article for the newsletter.
 - c. Ms. Mahlum also recommended that procedures be put into place for brokers to keep track of the status of the earnest money they have deposited with a closing company. ND Administrative Rule 70-02-01-15(2) states that

“Brokers are responsible at all times for deposits and earnest money accepted by them or their salesperson.” Executive Director Jergenson and Ms. Mahlum were asked to work together on a suggested procedure and bring back to the Commission. Jergenson was also asked to gather information from other states regarding this item.

5. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND.

- a. Complaint #2013-06 Jeff Stewart v Dennis G. Nelson. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Louser to dismiss the complaint filed against Mr. Nelson. M/C (aye: Commissioners Youngberg, Louser, Schlosser Nay; Commissioner Sheridan)
- b. Complaint #2013-17 Marguerite Kirk v Denise H. Pippin & Craig M. McIvor. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Youngberg to dismiss the complaint filed against Ms. Pippin and Mr. McIvor. M/C
- c. Complaint #2013-20 NDREC v Blake A. Krabseth. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Blake A. Krabseth in which Mr. Krabseth agrees to pay a fine of \$2,000 and \$350 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Louser moved, seconded by Commissioner Schlosser to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
- d. Complaint #2013-21 NDREC v Jenny Lende Clouse & Betsy Denis. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Youngberg moved, seconded by Commissioner Louser to set this complaint for a hearing and to offering the abbreviated process with a stipulated agreement to Ms. Lende Clouse and Ms. Denis. M/C
- e. Complaint #2013-22 NDREC v Jennifer L. Mansour & Betsy Denis. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Youngberg moved, seconded by Commissioner Schlosser to set this complaint for a hearing and to offering the abbreviated process with a stipulated agreement to Ms. Mansour and Ms. Denis and to combine Complaint #2013-21 against Ms. Denis with Complaint #2013-22. M/C
- f. Complaint #2013-23 NDREC v Brian J. Huskey, Jeffrey M. Reiter & Connie L. Baldwin. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Youngberg moved, seconded by Commissioner Sheridan to set this complaint for a hearing and to offer the abbreviated process with a stipulated agreement to Mr. Huskey, Mr. Reiter and Ms. Baldwin. M/C
- g. Robert J. Schmitz and his attorney Zachary E. Pelham were present at the meeting for the continued discussion regarding Mr. Schmitz’s real estate salesperson license application. Special Assistant Attorney General Connie Hofland presented the results of her research of the documents received from the ND Department of Insurance regarding Mr. Schmitz’s insurance license and her opinion regarding Mr. Schmitz’s real estate license application. Commissioner Youngberg moved, seconded by Commissioner Louser to deny the salesperson real estate license application of Mr. Robert J. Schmitz. M/C
- h. Ms. Hofland requested that her report on limited services be tabled until the next Commission meeting.
- i. Ms. Hofland requested that her report on unlicensed activity be tabled until the next Commission meeting.

- j. Ms. Hofland informed the Commission that she had received a letter from Theresa Halvorson's attorney refusing the stipulated agreement offered by the Commission to have a letter of reprimand placed permanently in her file. Commissioner Schlosser moved, seconded by Commissioner Youngberg to not accept Ms. Halvorson's proposed amendment to the stipulated agreement and set Complaint #2013-14 NDREC v Theresa Halvorson for a hearing. M/C
 - k. Complaint #2013-19 NDREC v Jack D. Stebbins. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Jack D. Stebbins in which Mr. Stebbins agrees to pay a fine of \$250, \$180 legal/investigative costs within 30 days of Notice of Entry of the Order and take a 3 hour course on agency within 90 days of the Notice of Entry (course hours are not to be used for continuing education). Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
6. REPEAT ADVERTISING VIOLATIONS.
 - a. Executive Director Jergenson provided information to the Commission showing recurring advertising violations by Erik R. Hatch. Commissioner Youngberg moved, seconded by Commissioner Louser to file a complaint against Mr. Hatch and his broker, Marc C. Johnson and offer the abbreviated process with a stipulated agreement. M/C
 - b. Executive Director Jergenson provided information to the Commission showing recurring advertising violations by Patrick M. Koski. Commissioner Sheridan moved, seconded by Commissioner Youngberg to file a complaint against Mr. Koski and his broker, Chad Wachter and offer the abbreviated process with a stipulated agreement. M/C
7. NON-COMPLIANCE: TRUST ACCOUNT AUDIT REQUEST FOR INFORMATION.
 - a. Executive Director Jergenson provided information to the Commission showing repeated requests from the Commission office for trust account information from Mark D. Campbell, broker of Strategic Real Estate Advisors, LLC noting that Mr. Campbell had not responded. Commissioner Sheridan moved, seconded by Commissioner Youngberg to file a complaint against Mark D. Johnson. M/C
 - b. Executive Director Jergenson provided information to the Commission showing repeated requests from the Commission office for trust account information from Ernest J. Gregoire, broker of Gregoire and Associates noting that Mr. Gregoire had not responded. Commissioner Youngberg moved, seconded by Commissioner Louser to file a complaint against Ernest J. Gregoire. M/C
8. FINES. Executive Director Jergenson stated that the data she had gathered regarding guidelines for fines from other jurisdictions needs to be compiled and asked for this to be tabled at this time.
9. NON-COMPLIANCE WITH ADHERING TO AGREED STIPULATED AGREEMENT. Executive Director Jergenson informed the Commission that Joe J. Frenzel had not complied with the requirement of completing 3 hours of education on agency within the timeframe as agreed in the stipulated agreement for complaint #2013-07. Commissioner Sheridan moved, seconded by Commissioner Schlosser to send a certified letter from legal counsel informing Mr. Frenzel that his license will not be renewed due to his non-compliance and pending our attorney's review of proper procedure in this matter. M/C
10. DISCUSS POSSIBLE ADMINISTRATIVE RULE CHANGES. Executive Director Jergenson presented several changes to the administrative rules for the Commissions' consideration. Jill Beck, NDAR CEO stated that the association's Governmental Affairs Committee will be meeting in late January to discuss legislative items as well.
11. REVIEW LICENSE APPLICATIONS.
 - a. Commissioners reviewed the application of Shannon R. Barnum for a reciprocal broker license. Commissioner Schlosser moved, seconded by Commissioner Louser to deny the application of Ms. Barnum due to items on her credit report. M/C

- b. Commissioners reviewed the application of Raina H. Bondy for a salesperson license. Commissioner Louser moved, seconded by Commissioner Youngberg to approve Ms. Bondy to sit for the salesperson license examination. M/C
- c. Commissioners reviewed the application of Alex J. Chaput for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Mr. Chaput to sit for the salesperson license examination. M/C
- d. Commissioners reviewed the application of Vanessa M. Chaput for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Ms. Chaput to sit for the salesperson license examination. M/C
- e. Commissioners reviewed the application of Brandon C. Culver for a salesperson license. Commissioner Louser recused herself from discussion and vote on this applicant. Mr. Culver joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve Mr. Culver to sit for the salesperson license examination. M/C
- f. Commissioners reviewed the application of Bradley D. Fandrich for a salesperson license. Mr. Fandrich joined the meeting by conference call to discuss his credit report. Commissioner Sheridan moved, seconded by Commissioner Louser to table Mr. Fandrich's application until he provides proof to staff that the items in collection have been paid. M/C
- g. Commissioners reviewed the application of Isaac R. Handegard for a salesperson license. Mr. Handegard joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Handegard to sit for the salesperson license examination. M/C
- h. Commissioners reviewed the application of Jodi K. Holland for a salesperson license. Ms. Holland joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Ms. Holland to sit for the salesperson license examination. M/C
- i. Commissioners reviewed the application of Ryan C. Johnson for a salesperson license. Mr. Johnson joined the meeting by conference call to answer any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Youngberg to table Mr. Johnson's application until he provides letters of reference from two business associates and two bankers. M/C
- j. Commissioners reviewed the application of Thomas P. Lunde for a salesperson license. Mr. Lunde joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Lunde to sit for the salesperson license examination. M/C
- k. Commissioners reviewed the application of Gerald M. Manley, Jr. for a salesperson license. Mr. Manley joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Mr. Manley to sit for the salesperson license examination. M/C
- l. Commissioners reviewed the application of Jeffrey J. Rost for a salesperson license. Mr. Rost joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Rost to sit for the salesperson license examination. M/C
- m. Commissioners reviewed the application of Joyelle L. Schroeder for a salesperson license. Ms. Schroeder joined the meeting by conference call to discuss her credit report. Commissioner Louser moved, seconded by Commissioner Sheridan to table Ms. Schroeder's application until she provides verification that the judgments on her credit report have been satisfied and an explanation for each item in collection. M/C

- n. Commissioners reviewed the application of Peter J. Badgett for a non-resident broker license. Mr. Badgett joined the meeting by conference call to discuss the status of the foreclosure on his credit report. Commissioner Sheridan moved, seconded by Commissioner Schlosser to table Mr. Badgett's application and request that he provide letters of reference from bank and business associates. M/C
12. APPEAL OF DENIED APPLICATIONS.
 - a. Daisha A. Gillmore's application for a salesperson license was denied at the August 7, 2013 Commission meeting due to items on credit report. Ms. Gillmore joined the meeting via conference call to discuss the efforts she has made to clean up her credit report issues. Commissioner Youngberg moved, seconded by Commissioner Sheridan to table Ms. Gillmore's appeal for a maximum of twelve months from the date of this meeting in which time she is to provide information that the credit issues have been resolved. M/C
 - b. Mr. Lindbo's application for a salesperson license was denied at the October 10, 2013 Commission meeting due to Mr. Lindbo's background check & Mr. Lindbo himself stating that he is currently on probation. Mr. Lindbo and Barbara Grande joined the meeting via conference call to discuss his appeal. Mr. Lindbo provided documentation showing that he was no longer on probation. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Mr. Lindbo to sit for the real estate salesperson examination. M/C
 13. REVIEW TABLED APPLICATION OF TIMOTHY K. KREY. Timothy K. Krey's application for a reciprocal broker license was tabled at the October 10, 2013 Commission meeting due to items on his credit report. Mr. Krey was requested to provide an explanation of how the delinquencies on his credit report are being dealt with and two letters of reference from business associates. Mr. Krey provided the requested items and joined the meeting via conference call to answer any other questions Commissioners may have. Commissioner Youngberg moved, seconded by Commissioner Sheridan to issue a reciprocal broker license to Mr. Krey. M/C
 14. REVIEW BROKER LICENSE APPLICATION/BROKER INSPECTION LETTERS: ERIC R. HATCH. Erik R. Hatch was present at the Commission meeting to respond to comments of his previous broker. Mr. Hatch provided letters of reference for the Commission to review. Commissioner Sheridan moved, seconded by Commissioner Youngberg to request additional information from Betsy Denis to support her comments on the broker inspection report she completed for Erik Hatch. M/C Staff was asked to request specifics from brokers who respond negatively on the broker inspection reports in the future.
 15. REVIEW TABLED LICENSE APPLICATIONS ONE YEAR OR OLDER.
 - a. Commissioner Youngberg moved, seconded by Commissioner Sheridan to deny the salesperson application of Dawn M. Poitra. M/C
 - b. Commissioner Youngberg moved, seconded by Commissioner Sheridan to deny the salesperson application of Kalee B. Sherlock. M/C
 - c. Commissioner Youngberg moved, seconded by Commissioner Schlosser to deny the salesperson application of Scott D. Stockert and his request for additional time. M/C
 - d. Commissioner Youngberg moved, seconded by Commissioner Sheridan to deny the salesperson application of Elsa G. Thomas. M/CCommissioner Youngberg moved, seconded by Commissioner Sheridan to set a policy that if a tabled applicant does not respond within twelve months of the date of the meeting at which the application was tabled the application will automatically be denied. M/C
 16. ONLINE CONTINUING EDUCATION IN REGARDS TO ADMINISTRATIVE RULE 70-02-04-14. Executive Director Jergenson provided the Commission with another licensee who had completed 15 hours of continuing education online in less than four hours. Administrative Rule

70-02-04-14 states “the Commission will allow a maximum of eight hours of accreditation per day. Commissioner Sheridan moved, seconded by Commissioner Youngberg to send a letter to Mario Spasovski notifying him of the administrative rule, that he is seven hours short for his post-licensing education and that his license cannot be renewed on active status until he completes his post-licensing education. M/C Staff will also publish reminders of the rule on the website and in the newsletter.

17. REVIEW OUT OF STATE SUBDIVIDED LAND REGISTRATION REQUEST FOR WYOMING CLUB DEVELOPMENT, LLC. Executive Director Jergenson stated that the required documents and bond had been submitted for the registration of Wyoming Club Development, LLC. Commissioner Louser moved, seconded by Commissioner Youngberg to approve the registration of the Wyoming Club Development, LLC. M/C
18. APPOINTMENT OF BACK-UP SPECIAL ASSISTANT ATTORNEY GENERAL. Executive Director Jergenson shared the information on possible attorneys to act as a back-up to the Commission and options were discussed. It was the consensus to have Jergenson contact the Attorney General’s office for recommendations for an attorney and email Ms. Hofland with the information she receives.
19. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the October 10, 2013 meeting. A list of those waivers is attached to these minutes.
20. SCHEDULE NEXT COMMISSION MEETING. Staff will send out an email to the Commissioners to set a date in January 2014 for a Commission meeting via conference call.
21. COMMISSION GOALS. The goals of the Commission were reviewed.
22. OTHER BUSINESS.
 - a. Jergenson noted that Nexus Innovations across the hall was renting the conference room for \$100 per month.
 - b. Jergenson informed the Commission the cost of having GL Suites provide a new license database and that the ND Plumbing Board was in the process of having a license database developed locally. It was the consensus that staff continue to research options and costs.
 - c. Commissioner Youngberg shared information he had gathered regarding errors and omission insurance providers in North Dakota.

There being no further business Chair Cymbaluk adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director