

December 18, 2008
8:00 AM Central Time
Office of Administrative Hearings
Lewis & Clark Room
1707 N 9th St
Bismarck ND 58501

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

1. CALL MEETING TO ORDER. Commissioner Cymbaluk called the meeting to order at 8:00am. The scheduled hearing for Complaint # 2008-11NDREC v Brian Gullickson has been postponed. It was also noted that the hearing for Complaint # 2008-09 & 2008-10 Keith Danks V Kenneth Welter was posted incorrectly on the agenda and is scheduled to begin at 1:00pm.
2. APPROVE MINUTES OF OCTOBER 23, 2008 MEETING. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the October 23, 2008 minutes as presented. M/C
3. APPROVE FINANCIAL REPORTS FOR OCTOBER AND NOVEMBER 2008. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the October and November 2008 financial reports and to accept the 3rd quarter CD reports. M/C Commissioners reviewed the pledge of securities from Starion Financial for the certificates of deposit held there.
6. LEGISLATIVE ISSUES. Chair Cymbaluk moved to item #6 of the agenda so Claus Lembke, NDAR Governmental Affairs Director, could address the Commission. Mr. Lembke presented the North Dakota Association of Realtors (NDAR) legislative issues and a bill draft for proposed legislation on dual agency.
 - The proposed bill on dual agency is the result of an issue with disclosure and home inspections. Conversation with the bill sponsor could result in an agreement to withhold this bill if the Commission agrees to research the issue.
 - Claus noted several other bills he is watching on behalf of NDAR.
 - NDAR legal counsel Casey Chapman is drafting the bill regarding the authorization of the Real Estate Commission to set continuing education hour requirements. Mr. Lembke asked the Commission to provide a letter to NDAR stating how many continuing education hours the Commission would perceive could be required on a yearly basis.

Commissioner Schlosser moved, seconded by Commissioner Louser to recommend a requirement of 9 hours of continuing education annually if the legislation were to pass. M/C The mandatory course hours and topics remain at the discretion of the Commission to determine.

Pursuing legislation to remove the exemption for auctioneers and to require them to have a real estate license to auction real property was discussed. It was the consensus to do more research of legislation regarding the licensing of auctioneers in other jurisdictions. No legislation will be proposed on this issue during the 2009 Legislative session.

4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
 - a. Complaint # 2006-02 Lynette Lauer v Kathy Feist. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Youngberg to dismiss this complaint. M/C
 - b. Complaint # 2007-02 M/M Lunde v Alicia Loberg. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Youngberg to dismiss this complaint. M/C
 - c. Complaint # 2008-15 Micki Peterson v Arthur Grochow. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Louser to dismiss this complaint. M/C
 - d. Ms. Hofland provided Commissioners with a copy of her response to Mr. Jim Buus regarding his advertising questions.

Chair Cymbaluk recessed the meeting at 9:15am. The hearing for Complaint #2008-08 Jeffrey Riepl v Sandra Retterath began at 9:30am.

Chair Cymbaluk re-adjourned the meeting at 12:15pm.

5. REPORT FROM MAHLUM AND GOODHART REGARDING FINDINGS IN A TRUST ACCOUNT AUDIT. Commissioners reviewed a written report submitted by Mahlum & Goodhart regarding items discovered during the October 28, 2009 trust account audit of Oaktree LLP Realtors. Commissioner Sheridan moved, seconded by Commissioner Youngberg to investigate the possible trust account violations. M/C
6. Agenda item number 6 was addressed earlier.
7. TRADE NAME REGISTRATION. Executive Director Jergenson stated that the Commission staff will be checking for proper registration of all trade names, corporations, LLCs, and LLPs with the ND Secretary of State's office as part of the 2009 real estate license renewal process.
8. REVIEW ADDITIONAL INFORMATION SUBMITTED BY MICHAEL J. SYVERTSON. Commissioners reviewed the additional information provided by Mr. Syvertson as requested. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Mr. Syvertson to take the salesperson real estate examination assuming he has not had a real estate license previously and if he has that he has not had complaints filed against him. M/C Staff will also inform Mr. Syvertson why the Commission requests information pertaining issues such as those appearing on his application.
9. REVIEW APPLICATIONS FOR SALESPERSON LICENSES:
 - a. Commissioners reviewed the application of Stacy V. Custer for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Ms. Custer to sit for the real estate salesperson examination. M/C
 - b. Commissioners reviewed the application of Michael J. Hettwer for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Louser to deny Mr. Hettwer's application due to inconsistencies regarding misdemeanors on his application and the background check, his credit report and correspondence received from the public. M/C

- c. Commissioners reviewed the application of Michael G. Kramer for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Louser to deny Mr. Kramer's application due to the issue with the ND Securities Commissioner. M/C
 - d. Commissioners reviewed the application of Marco A. Rodriguez for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Rodriguez to sit for the salesperson real estate examination. M/C
10. AMP LICENSING EXAMINATION STATISTICS (7/1/07 TO 6/30/08). Commissioners were provided the real estate examination statistics for the last fiscal year.
 11. RISC STATISTICS FOR PERIOD 10/1/07 TO 10/1/08. Commissioners were provided the errors and omissions insurance statistics from RISC for October 2007 through October 2008.
 12. ARELLO ANNUAL CONFERENCE REPORTS. Commissioners Cymbaluk and Youngberg and Executive Director Jergenson filed written reports. Commissioner Youngberg was recognized for receiving a distinguished service award from ARELLO President Syd Machat for the work he has done on the Global Strategies Task Force.
 13. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the requests for trust account waivers as attached to these minutes. M/C
 1. COMMISSION GOALS. Commissioners reviewed the list of goals and noted that pursuing online license renewals should remain on the agenda.
 14. OTHER BUSINESS.
 - a. Jill Beck, NDAR EVP, asked the Commissioners to give strong consideration to a broker license applicant's experience before giving approval to waive the 2 years of experience requirement.

There being no further business Chair Cymbaluk adjourned the meeting at 12:50pm. The hearing for Complaint #2008-09 Keith Danks v Kenneth Welter began at 1:00pm.

Respectfully submitted,

Patricia M. Jergenson
Executive Director