

June 11, 2008
8:00 AM
ND Real Estate Commission
1st Floor Conference Room
200 E Main Ave Suite 204
Bismarck ND 58501

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 Diane Louser called the meeting to order. Roll call was taken.
2. APPROVE MINUTES OF APRIL 16, 2008 AND JUNE 2, 2008 MEETINGS. Commissioners noted an error in the April 16, 2008 minutes under number 2(c). The motion should have read “Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the proposed stipulation as corrected.” Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve the April 16, 2008 minutes with the correction to number 2(c) and the minutes of June 2, 2008 as presented. M/C
3. APPROVE FINANCIAL REPORTS FOR APRIL AND MAY 2008. Executive Director Jergenson reviewed the financial reports for April and May. Commissioners were asked if funds from the checking account should be invested in a CD or moved to the money market savings account to earn interest. It was the consensus of the Commissioners to move funds to the money market savings account. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the financial reports as presented. M/C
4. REVIEW FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER COMPLAINT # 2007-06 LONG V. FEIST. Commissioners reviewed the Findings of Fact, Conclusions of Law, and Order for Complaint # 2007-06 Mr. & Mrs. Long v Kathy Feist. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the Order as presented and authorize Chair Louser to sign it. M/C
5. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
 - a. Complaint # 2007-05 Carter v. Wadhawan. Special Assistant Attorney General Constance Hofland presented a proposed stipulated agreement signed by Mr. Jagdish Wadhawan. Mr. Wadhawan stipulated to attending a 3 hour course on agency law/agency conflicts in addition to the continuing education

- requirements and costs in the amount of \$1800. Commissioner Schlosser moved to accept the stipulated agreement as presented. M/C
- b. Complaint # 2008-01 Jeremy & James Dietz v. Stacey Galstad and Dana Erickson. Special Assistant Attorney General Constance Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to dismiss the complaint. M/C
 - c. Complaint # 2008-02 NDREC v. Clyde Trautman. Special Assistant Attorney General Constance Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Youngberg to set this complaint for a hearing. M/C
 - d. Complaint # 2008-03 NDREC v. Linda Klebe. Special Assistant Attorney General Constance Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to table action on this complaint until another audit has been completed on the Hometown Realty, Inc. trust account. M/C Commissioners were agreeable to Ms Klebe's request to be allowed to close her second trust account which is registered as Linda Klebe.
 - e. Complaint # 2008-07 NDREC v. Jason Spiess. Special Assistant Attorney General Constance Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to set this complaint for hearing. M/C
 - f. Complaint # 2008-05 NDREC v. Richard Ward. Special Assistant Attorney General Constance Hofland presented the results of her investigation of this complaint. Commissioner Youngberg moved, seconded by Commissioner Sheridan to set this complaint for hearing. M/C
 - g. Special Assistant Attorney General Constance Hofland presented the results of her preliminary investigation regarding Brian Gullickson's responses on his real estate license renewal. Commissioner Sheridan moved, seconded by Commissioner Schlosser to file a complaint against Brian Gullickson. M/C
 - h. Advertising Rules Q & A. Commissioners reviewed the question and answer sheet on the advertising rule changes compiled by Ms Hofland and Executive Director Jergenson. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve this document for publication. M/C
 - i. Memorandum on listing agreements with pending divorces in ND. Special Assistant Attorney General Constance Hofland presented a memo in which she reviewed ND statutes regarding the requirement for all owners to sign listing agreements in North Dakota.
6. REVIEW PROPOSED AMENDMENT TO RECIPROCAL AGREEMENT WITH NEBRASKA. Nebraska has submitted an addendum to our existing reciprocal agreement which will be effective July 18, 2008 and amends the agreement to require a nonresident

applicant from North Dakota seeking licensure as a nonresident salesperson or broker in Nebraska to complete a three-clock hour class in Nebraska license law and agency law. Paragraph 5 of the agreement is also amended to require, prior to issuance of a resident license, a person from North Dakota moving to Nebraska to complete the three-clock hour class in Nebraska license law and agency law, if the person has not previously completed this coursework as a non-resident. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve the amendment to the reciprocal agreement with Nebraska. M/C

7. DISCUSS RECIPROCITY. Executive Director Jergenson presented the Commissioners with information on the way that several states handle reciprocity, some that don't and some that are considering a change. ARELLO will be conducting a survey on this issue and Jergenson suggested that the Commission wait and see what the survey results are. It was the consensus of the Commissioners to wait for the report from ARELLO. This item will be kept on future agendas.
8. DISCUSS PLANS TO IMPLEMENT BROKER SIMULATION EXAM. The target date to begin giving the broker simulation exam is August 11, 2008. This exam will be a national exam and will be comprised of 12 problems – 10 of which are scored. The applicant will be given 3.5 hours to complete the exam.
9. REVIEW BID FROM MAHLUM & GOODHART PC TO CONDUCT ANNUAL AUDIT OF COMMISSION'S BOOKKEEPING RECORDS. Commissioners reviewed the proposal submitted by Mahlum & Goodhart PC to audit the financial records of the Commission. Commissioner Youngberg moved, seconded by Commissioner Sheridan to accept the proposal as submitted. M/C
10. REVIEW BID FROM MAHLUM & GOODHART PC TO CONDUCT TRUST ACCOUNT AUDITS ON BEHALF OF THE COMMISSION. Commissioners reviewed the proposal submitted by Mahlum & Goodhart PC to conduct audits of the real estate brokerage trust accounts in the state of North Dakota. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to accept the proposal with a change to the term of the contract to end June 30, 2010. M/C
11. REVIEW BID FROM MAHLUM & GOODHART PC TO CONDUCT CONTINUING EDUCATION AUDITS ON BEHALF OF THE COMMISSION. Commissioners reviewed the proposal submitted by Mahlum & Goodhart PC to audit the continuing education records of North Dakota licensees. Executive Director Jergenson discussed conducting the continuing education audits in house. Commissioner Schlosser moved, seconded by Commissioner Youngberg to reject the proposal submitted by Mahlum & Goodhart PC. M/C Staff will conduct a continuing education audit beginning with a small group which is to include the Commissioners. Licensees will be given 2 weeks in which to provide copies of their continuing education to the Commission office.
12. REVIEW 2008/09 PROPOSED BUDGET. The 2008/09 proposed budget was reviewed in detail. Commissioner Youngberg moved, seconded by Commissioner Schlosser to include the line item "Set Aside for Capital Improvements" on the expense side and to

budget \$300 per month (total of \$3600) for this item. M/C Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the budget. M/C Commissioners discussed the possibility of using some of the general funds to aid a course provider in the development of broker level continuing education courses. Staff will research how other states handle this.

13. APPEARANCES REGARDING REQUESTS FOR HEARING ON DENIED APPLICATIONS.

- a. Victor M. Borgheinck appeared before the Commission to appeal the denial of his reciprocal broker license application. Mr. Borgheinck explained his situation with the IRS, provided letters of reference and a copy of the notice from the IRS deferring his payments. Commissioners stood with their denial of Mr. Borgheinck's application stating that he needed to resolve the IRS tax liens and judgments.
- b. Tabb L. Thompson appeared before the Commission to appeal the denial of his salesperson application due to unpaid judgments. Commissioner Schlosser recused himself from discussion and vote. Mr. Thompson stated that the unpaid judgments that showed up on his credit report were not recorded as paid on the credit report, that they were paid & that Experian had erred in their reporting. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Thompson to take the salesperson real estate exam. M/C (Commissioner Schlosser abstained.)

14. REVIEW APPLICATIONS FOR SALESPERSON LICENSES.

- a. Commissioners reviewed the application of Steve P. Crary for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve Mr. Crary to sit for the salesperson real estate examination. M/C
- b. Commissioners reviewed the application of Larry A Hondl for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Hondl to sit for the salesperson real estate examination. M/C
- c. Commissioners reviewed the application of Jennifer M. Hogue for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Ms. Hogue to sit for the salesperson real estate examination. M/C
- d. Commissioners reviewed the application of Ron D. Loctao for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to defer Mr. Loctao's application pending receipt of 3 letters of reference (1 personal & 2 business). M/C
- e. Commissioners reviewed the application of Courtney R. Miller for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Ms. Miller to sit for the salesperson real estate examination. M/C
- f. Commissioners reviewed the application of Sereena J. Olson for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Ms. Olson to sit for the salesperson real estate examination. M/C

there is a discussion on foreseeable changes in policies of licensing non-resident licensees in any of the jurisdictions.

20. ARELLO MID-YEAR MEETING REPORT: COMMISSIONERS CYMBALUK & YOUNGBERG, EXECUTIVE DIRECTOR JERGENSON. Executive Director Jergenson submitted a written report. Commissioners Youngberg and Cymbaluk presented the highlights of the meeting to the Commissioners.
21. REVIEW FIRST QUARTER 2008 E&O INSURANCE CLAIMS REPORT FROM RISC. RISC provided the Commission with the 1st quarter of 2008 report on E&O insurance claims.
22. 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
23. COMMISSION GOALS. Commissioners reviewed a compiled list of goals that the Commission is striving to accomplish as well as those that have been attained.
24. ELECTION OF OFFICERS FOR 2008/09. Commissioner Youngberg moved, seconded by Commissioner Schlosser to elect Commissioner Cymbaluk Chair and Commissioner Sheridan Vice Chair of the Commission. M/C
25. OTHER BUSINESS:
 - a. Bobbi J. Isakson submitted the additional information requested by the Commission at their April 18, 2008 meeting regarding her salesperson license application. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve Ms. Isakson to sit for the salesperson real estate license examination. M/C
 - b. Commissioners approved a new form to be used when a real estate license is to be cancelled.
 - c. Executive Director Jergenson informed the Commission that she is researching how other jurisdictions conduct the fingerprinting of license applicants and the forms that are used.

There being no further business Chair Louser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director

