

June 11, 2009
8:00 am CDT
ND Real Estate Commission
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 M. Jergenson/Executive Director, Constance
Hofland/Special Assistant Attorney General

1. CALL MEETING TO ORDER. Chair Roger Cymbaluk called the meeting to order at 8:00am. Chair Cymbaluk noted that the hearing on complaint #2008-13 Haarsager v Bjornstad scheduled for today had been granted a postponement by Administrative Law Judge Hoberg.
2. APPROVE MINUTES. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve the minutes from April 10, 2009. M/C Item #10 of the minutes regarding online course timers was discussed. Executive Director Jergenson introduced conflict counsel Special Assistant Attorney General Chris Edison. Mr. Edison is with the Storslee Law Firm in Bismarck. Jergenson then went over the changes to the agenda regarding the online license renewal presentations due to the postponement of the hearing.
3. APPROVE FINANCIAL REPORT FOR APRIL 2009. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the April 2009 financial report as presented. M/C
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
 - a. Complaint #2008-04 NDREC v Frederick Skoda. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint stating that although Mr. Skoda was not easy to find, once contact was made he did provide the documentation that had been requested from his trust account audit and also that his real estate license had been cancelled for non-renewal. Commissioner Sheridan moved, seconded by Commissioner Youngberg to dismiss this complaint. M/C

- b. Complaint # 2008-17 Andra J. Miller v Jack Neumann, Leslie Riepl, and Sue Feland. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Louser moved, seconded by Commissioner Sheridan to set this complaint for a hearing. M/C
 - c. Complaint #2009-02 NDREC v Timothy L. Crary. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Sheridan to dismiss this complaint. M/C
 - d. Complaint # 2008-18 M/M Lorenz v Mark Tweten – Stipulation & Settlement Agreement. Special Assistant Attorney General Connie Hofland presented the terms of the proposed stipulated agreement in which Mr. Tweten is to pay a fine in the amount of \$1000.00, investigative/legal costs of \$1280.00 and attend 6 hours of education on ethics or contracts or both within 12 months of the date of Entry of Order. Commissioner Schlosser moved, seconded by Commissioner Sheridan to accept the stipulated agreement as presented. M/C
 - e. Summary of Frokjer v ND Board of Dental Examiners, ND Supreme Court case decided April 30, 2009. In Frokjer v. North Dakota Board of Dental Examiners, 2009 ND 79, 764 N.W.2d 657, the North Dakota Supreme Court determined that the fact that the board had authority to assess costs and attorney fees against the respondent did not render the board inherently biased in violation of due process. This is of interest to the North Dakota Real Estate Commission because the commission also has the authority to assess costs and attorney fees.
5. REVIEW WEBSITE WWW.REALESTATECLIENTREFERRALS.COM. Executive Director Jergenson provided Commissioners with information regarding the Real Estate Client Referrals web site www.realestateclientreferrals.com. It was the consensus of the Commissioners to have Special Assistant Attorney General Connie Hofland investigate this referral program and if they are required to hold a real estate license in ND.
6. REVIEW PROPOSAL FROM MAHLUM & GOODHART PC TO CONDUCT ANNUAL AUDIT. Commissioners reviewed the proposal submitted by Mahlum & Goodhart PC to audit the financial records of the Commission. Commissioner Sheridan moved, seconded by Commissioner Youngberg to accept the proposal as submitted and give Executive Director Jergenson the authority to sign the contract. M/C
7. CONTINUING EDUCATION AUDIT REPORT. Executive Director Jergenson reviewed the continuing education audit report conducted in April 2009 noting that 15% (267) of the licensees were audited and two were found not to be in compliance. Upon notification both individuals responded immediately and the issues were resolved.
8. REVIEW APPEALS OF DENIED SALESPERSON APPLICATIONS.
 - a. John R. Corbett submitted a letter to explain the discrepancies in his answers regarding misdemeanors on his application and requested the Commission approve his application to take the salesperson license examination. Commissioner Schlosser moved, seconded by Commissioner Louser to reaffirm the denial of Mr. Corbett's application for a salesperson license. M/C

- b. Kim M. Korynta submitted a letter to explain the discrepancies in her answers regarding misdemeanors on her application and request the Commission approve her application to take the salesperson license examination. Commissioner Sheridan moved, seconded by Commissioner Louser to reaffirm the denial of Ms. Korynta's application for a salesperson license. M/C
 - c. Sherri L. Johnson submitted documentation showing payment of one of the judgments against her and requested the Commission approve her application to take the salesperson license examination. Commissioner Louser recused herself from discussion and vote on this application. Commissioner Sheridan moved, seconded by Commissioner Schlosser to reaffirm the denial of Ms. Johnson's application for a salesperson license. M/C
9. REVIEW APPLICATIONS FOR SALESPERSON LICENSES.
- a. Commissioners reviewed the application of Nicole M. Balensifer for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Ms. Balensifer to sit for the salesperson real estate examination. M/C
 - b. Commissioners reviewed the application of Michael W. Jorgenson for a salesperson license. Commissioner Louser moved, seconded by Commissioner Sheridan to approve Mr. Jorgenson to sit for the salesperson real estate examination. M/C
 - c. Commissioners reviewed the application of Kathleen C. Maas for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Ms. Maas to sit for the salesperson real estate examination. M/C
10. REVIEW REQUESTS FOR WAIVER OF EDUCATION FOR BROKER LICENSE APPLICATIONS.
- a. Commissioners reviewed a request by Mary Claire Quella to waive the 2 years of experience as a salesperson required prior to taking the broker real estate exam, to accept the education she has taken to acquire her attorney's license as the 60 hours of education required to take the broker real estate exam and to allow her to take the state portion of the North Dakota real estate examination. Ms Quella also provided certificates of licensure from 14 states in which she holds a real estate broker's license. Commissioner Youngberg moved, seconded by Commissioner Louser to waive the salesperson experience, accept the education submitted by Ms. Quella and approve her to take the state portion of the real estate examination. M/C
 - b. Commissioners reviewed a request by Kari R. Winning to waive the 2 years of experience as a salesperson required prior to taking the broker real estate exam and to accept the education she has taken to acquire her attorney's license as the 60 hours of education required to take the broker real estate exam. Commissioners tabled action on Ms. Winning's broker license application until

she provides proof that she has taken real estate education. Staff was also asked to verify Ms. Winning's law license.

11. CONFERENCE CALL – REPRESENTATIVE WOLF REGARDING DUAL AGENCY (11:00 AM). Representative Lisa Wolf joined the meeting via conference call to share the reason she had drafted a bill in the last legislative session to make it illegal for a licensee to act as a dual agent when they are selling their own property. This concern is based on the experience Representative Wolf and her husband had when purchasing a property from a licensee who owned the property and acted as a dual agent for them about 6 years ago. Items covered in the discussion were: filing a civil lawsuit for damages, property inspection, the ability to file a complaint with the Commission, and agency disclosure. Commissioners Schlosser & Sheridan sit on the Appointed Agency Task Force and stated that the task force would review the statutes and rules to determine if it would be necessary to legislate a change or if there was consumer protection in the law as it is now written.
12. ONLINE LICENSE RENEWAL PRESENTATION (11:30AM): BPRO/RICK SOMMERFELD. Rick Sommerfeld and Randy Haaland, BPro, Inc. presented their proposal for online processing of license renewals and responded to questions.
13. ONLINE LICENSE RENEWAL PRESENTATION (1:30 PM): TAO/KEVIN LEIER. Kevin Leier, TAO interactive presented his proposal for online processing of license renewals and responded to questions.
14. ARELLO MID-YEAR CONFERENCE REPORTS. Commissioners Cymbaluk and Youngberg and Executive Director Jergenson filed written reports. A letter from Grace Berger, Montana Executive Director, requesting support for her candidacy for ARELLO President Elect was discussed. Commissioner Youngberg moved, seconded by Commissioner Louser to support Grace Berger in her bid for ARELLO President Elect. M/C It was also the consensus of the Commissioners to support Executive Director Jergenson as a District 3 alternate to the ARELLO Board of Directors and Commissioner Youngberg as he continues to serve ARELLO in a leadership capacity.
15. DISCUSS AMENDMENTS TO THE ADMINISTRATIVE RULES. Commissioners discussed the draft of proposed amendments to the Administrative Rules as attached to these minutes. Staff and legal counsel will rework a couple of the proposed changes and present to the Commission at their next meeting.
16. ONLINE LICENSE RENEWAL PRESENTATION (10:00 AM): DAN ALBERTSON/ALBERTSON CONSULTING. Dan Albertson/Albertson Consulting presented his proposal for online processing of license renewals and responded to questions.
17. ELECTION OF OFFICERS. Commissioner Louser moved, seconded by Commissioner Schlosser to elect Commissioner Sheridan Chair and Commissioner Youngberg Vice Chair of the Commission. M/C
18. ONLINE LICENSE RENEWAL PRESENTATION (9:00AM): ODNEY/CASEY KING. Casey King/Odney presented his proposal for online processing of license renewals and responded to questions.

19. REVIEW 2009/10 PROPOSED BUDGET. The 2009/10 proposed budget was reviewed in detail and approved.
20. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve trust account waivers as attached to these minutes. M/C
21. COMMISSION GOALS. Commissioners reviewed the goals as revised at the April 22, 2009 meeting.
22. OTHER BUSINESS.
 - a. Commissioners reviewed an email received from Dee Baertsch, Little Missouri Real Estate, in which she asks if it would be acceptable to continue to maintain her web site as www.littlemissourilandcompany.com even though the company's name has been changed to Little Missouri Real Estate. This request is not in accordance with Administrative Rule 70-02-03-02.1 and therefore denied.
 - b. Commissioner Schlosser stated that the Appointed Agency Task Force would like to have Special Assistant Attorney General Connie Hofland write an article on appointed agency and how it affects teams. It was agreed that this would be a good article to have Ms Hofland write. The article should be read by the full task force & then the Commission prior to publication.
 - c. Jill Beck, NDAR EVP, asked if social media, such as Facebook, still falls under the advertising rule. It was the consensus that it would fall under Administrative Rule 70-02-03-02.1.
 - d. Staff noted that the format of the agenda will remain the same.
 - e. Commissioners discussed the presentations by the online license renewal software providers and our goal for the future. Staff will ask each provider for financial statements and some additional questions for review by the Commission. A conference call will be scheduled to keep the selection process moving so we can meet our October goal to offer online license renewals.
 - f. It was recommended to have a Commission meeting in Fargo, ND on September 15, 2009.
 - g. Staff provided Commissioners with a copy of an article from ARELLO regarding a court case in West Virginia which prompted a change in their agency disclosure.

There being no further business Chair Cymbaluk adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director