

June 12, 2007
8:00 AM
ND Real Estate Commission
200 E Main Ave Suite 204
1st Floor Conference Room
Bismarck ND 58501

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

1. CALL MEETING TO ORDER. Chair Jerry Schlosser called the meeting to order. Roll call was taken.
2. APPROVE MINUTES OF APRIL 12, 2007 AND MAY 22, 2007 MEETINGS. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the minutes of April 12, 2007. M/C Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the minutes of the May 22, 2007 meeting. M/C (Commissioners Louser and Sheridan abstained)
3. APPROVE FINANCIAL REPORTS FOR MARCH, APRIL, & MAY 2007. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to authorize Secretary Treasurer Jergenson to invest funds from the general savings account in certificates of deposits. M/C Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve the March, April and May 2007 financial reports. M/C
4. DISCUSS FINDINGS OF FACT FOR NDREC V. SHELDON GUDMUNSON HEARING. Commissioners Louser and Sheridan and Assistant Attorney General Connie Hofland recused themselves from this portion of the meeting. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the Findings of Fact and the 2 letters of reprimand to be placed in Sheldon Gudmunson's file. M/C (Commissioners Schlosser, Youngberg and Cymbaluk voting).
5. LEGAL UPDATE: CONNIE HOFLAND.
 - (i) Complaint #2006-22 Charles Crouch v. Jack Stebbins. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint to the Commissioners noting that Mr. Crouch has stated that he wanted to withdraw his complaint against Jack Stebbins. Commissioner

- Sheridan moved, seconded by Commissioner Louser to allow the complaint to be withdrawn. M/C
- (ii) Complaint #2007-01 Cindy Sahr v. Avis White & Stephanie Sarabaksh. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint to the Commissioners. Ms Sahr alleges in her complaint that both Avis White and Stephanie Sarabaksh withheld information from her concerning the pipes on the property. Ms Hofland recommended the complaint against White and Sarabaksh be dismissed as there appears to be insufficient evidence of potential violations of statute or administrative rules. Commissioner Sheridan moved, seconded by Commissioner Youngberg to dismiss the complaint against Ms White and Ms Sarabaksh. M/C
- (iii) Complaint #2007-02 M/M Lunde v Alicia Loberg. Special Assistant Attorney General Connie Hofland informed the Commissioners that this matter is currently under civil litigation. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table this complaint until pending litigation is resolved. M/C
- (iv) Complaint #2007-03 M/M Raasch v Naomi Turner. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint to the Commissioners. Mr. Raasch alleges in his complaint that Ms Turner, who represented the sellers, did not disclose that land Mr. Raasch purchased was in the PLOTS program. Ms Hofland recommended the complaint against Ms Turner be dismissed as there appears to be insufficient evidence of potential violations of statute or administrative rules. Commissioner Cymbaluk moved, seconded by Commissioner Louser to dismiss the complaint against Ms Turner. M/C
- (v) In a memo regarding Administrative Rule 70-02-01-19 (Psychologically impacted properties) and whether or not the rule needed to be amended to be in compliance with the Fair Housing Act legal counsel Hofland stated that the Administrative rule is not in conflict with the Fair Housing Act and that a real estate licensee should not disclose the AIDS or HIV status of a prior occupant.
- (vi) Complaint #2006-20 Stephanie Davos v Jonathon Kotrba. Special Assistant Attorney General Connie Hofland presented a proposed offer of stipulation from Mr. Kotrba. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to not accept the proposed terms. M/C

- (vii) Ms Hofland informed Commissioners that she is waiting for a response from Richard Ward on Complaint #2007-06 NDREC v. Richard Ward. Commissioner Youngberg moved, seconded by Commissioner Sheridan to reopen the investigation of Mr. Ward regarding Complaint #2006-15 now that the civil litigation has been completed. M/C

6. REVIEW APPLICATIONS FOR SALESPERSON LICENSES.

- a. Commissioners reviewed the application of Nicholas R. Hansen for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Hansen to sit for the salesperson real estate examination. M/C
- b. Commissioners reviewed the application of Nicole L. Hofer for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Ms. Hofer to sit for the salesperson real estate examination. M/C
- c. Commissioners reviewed the application of Darrin L. Johnson for a salesperson license. Commissioner Louser moved, seconded by Commissioner Youngberg to approve Mr. Johnson to sit for the salesperson real estate examination. M/C
- d. Commissioners reviewed the application of Jeremy L. Klumper for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Mr. Klumper to sit for the salesperson real estate examination. M/C
- e. Commissioners reviewed the application of Dallas L. Kuntz for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve Mr. Kuntz to sit for the salesperson real estate examination. M/C
- f. Commissioners reviewed the application of William J. Lengowski for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve Mr. Lengowski to sit for the salesperson real estate examination. M/C
- g. Commissioners reviewed the applications of Kerry and Kevin Magnuson for salesperson licenses. Commissioner Cymbaluk moved, seconded by Commissioner Louser to deny the applications of Kevin and Kerry Magnuson due to IRS liens files against them. M/C
- h. See item #g
- i. Commissioners reviewed the application of Christopher S. Noah for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Noah to sit for the salesperson real estate examination. M/C
- j. Commissioners reviewed the application of Kimberly K. Olson for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Ms. Olson to sit for the salesperson real estate examination. M/C
- k. Commissioners reviewed the application of Troy M. Skjerseth for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Skjerseth to sit for the salesperson real estate examination. M/C

- l. Commissioners reviewed the application of Barbara J. Stein for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Ms. Stein to sit for the salesperson real estate examination. M/C
 - m. Commissioners reconsidered the application of Ross A. McGregor for a salesperson license. Mr. McGregor provided the Commissioners with the information they requested at the April 12, 2007. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. McGregor to sit for the salesperson real estate examination. M/C
 - n. Commissioners reviewed the application of Neil Wadhawan for a reciprocal salesperson license. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Mr. Wadhawan's request for a reciprocal salesperson license. M/C (4 ayes, 1 nay, Commissioner Cymbaluk)
7. BACKGROUND CHECKS ON LICENSEES AS REQUESTED BY COMMISSION. North Dakota criminal background checks on Shawn A. Huber and Jason A. Spiess showed that both had been convicted of misdemeanor charges. The North Dakota criminal background check on Brian S. Gullickson was clear. It was noted that there is not a requirement in ND Century Code requiring a licensee to report a misdemeanor or felony within a specific timeframe to the Commission, however it is a question asked on the license renewal form. Staff will flag the files of these licensees to see if they report these charges on their 2008 license renewal forms.
8. REVIEW REQUEST REGARDING CANCELLED LICENSE FROM DALE L. FORSBERG. The broker license of Dale L. Forsberg was cancelled March 1, 2007 for non-renewal. Mr. Forsberg wrote the Commission asking them to reinstate his license. The consensus of the Commissioners is that NDCC 43-23-13.1 clearly states that licenses are cancelled without notice on March 1st if not renewed.
9. NSF CHECKS RECEIVED FROM JODI DEPLAZES, MARISA HOLMAN, OLIVERA MEMOVIC, MICHAEL OLSON AND SUMMIT REAL ESTATE. Commissioners reviewed documentation provided by Ms Deplazes, Ms Holman, Michael Olson, and Richard Ward (on behalf of Summit Real Estate) regarding the NSF checks received for their 2007 license renewals. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to accept the explanations provided and to remind these licensees in a letter that the burden is upon them to ensure that their bank account contains sufficient funds to cover an issued check. M/C The policy for handling NSF checks in the Commission office was discussed. It was determined to keep the current policy in place but when the NSF notification letter is sent to a licensee it should also be carbon copied to the broker. Commissioner Louser moved, seconded by Commissioner Youngberg to investigate Jodi Deplazes practicing real estate while her license was inactive. M/C

10. REVIEW BID FROM MAHLUM & GOODHART PC TO CONDUCT ANNUAL AUDIT OF COMMISSION'S BOOKKEEPING RECORDS. The proposal for services submitted by Mahlum & Goodhart to conduct the annual audit of the Commission's financial records was reviewed. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to accept the contract with Mahlum & Goodhart as proposed. M/C
11. TRUST ACCOUNT AUDIT REPORT. Commissioners reviewed the trust account audit report for recent trust account audits of Ken Zimney, Century 21 Heritage Realty and Janet Wright, The Wright Property. Commissioner Sheridan moved, seconded by Commissioner Youngberg to accept the audit report, send a letter to each broker requesting a written plan of action for handling the trust account issues discovered in the audit within 30 days and schedule an unannounced re-audit. M/C
12. REVIEW 2007/08 PROPOSED BUDGET. The proposed budget was reviewed in detail. A \$2500 bonus was given to Secretary Treasurer Jergenson. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to accept the budget as proposed. M/C
13. UPDATE ON NEW LICENSEES WHO HAVE NOT COMPLETED THE 15 HOURS OF POST LICENSING EDUCATION. Commissioners reviewed a list of licensees who had not completed their 15 hours of post licensing education within the timeframe as described by law. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to notify each licensee on the list and their broker that unless proof that the post licensing education has been completed by June 29, 2007 their license will be placed on inactive status as of that date and a reminder that when on inactive status it is against the law to conduct any real estate business. M/C
14. REQUEST FROM DEREK CHRISTOPHERSON TO HAVE HIS SALESPERSON LICENSE REINSTATED. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to deny Mr. Christopherson's request to reinstate his real estate license. M/C
15. DISCUSS SUGGESTIONS FOR REVISION OF THE BROKER'S RECORD OF PROFESSIONAL REAL ESTATE ACTIVITY BROCHURE. Chair Schlosser gave the Commissioners his vision of the purpose of this brochure and its use. This item will be placed on the next meeting agenda.
16. WEBSITE UPDATE. Items to be posted to the Commission's new web site were discussed.
17. NEW FORMAT OF MN CERTIFICATE OF LICENSURE. Secretary Treasurer Jergenson discussed some issues that have arisen with the new format of the MN certificate of licensure.

18. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the trust account waiver requests from Frederick S. Gengler and Cletus J. Zink. M/C
19. REVIEW SUMMARY REPORT OF 2007 LICENSE RENEWALS WITH FINANCIAL ISSUES OR CONVICTIONS. Commissioners reviewed a report of 2007 licensees who reported financial issues, felonies or misdemeanors on their 2007 license renewal form.
20. REVIEW FIRST QUARTER E&O INSURANCE CLAIMS REPORT FROM RISC. RISC provided the Commission with the 1st quarter of 2007 report on E&O insurance claims.
21. ELECTION OF OFFICERS. Commissioner Youngberg moved, seconded by Commissioner Sheridan to nominate Commissioner Diane Louser to serve as Chair and Commissioner Roger Cymbaluk to serve as Vice Chair for 2007/08. M/C
22. COMMISSION GOALS. The Commission's goals were reviewed.
23. OTHER BUSINESS:
 - a. Old business from the April 12, 2007 meeting item #18(a) the Commission tabled the filing of a complaint against Todd Fettig. The consensus is to have Assistant Attorney General Jerry Kettleson provide the Commission with a report of his investigation to date for the next meeting.
 - b. Procedure involving a transfer when the current broker will not release the licensee to a new broker by not returning the license to the Commission office was discussed. Administrative Rule 70-02-01-08 was reviewed. The new broker will be asked to provide a written statement to the Commissioners to review at a regularly scheduled meeting.
 - c. Commissioners received copies of the ARELLO Education Content Certification Program to review for discussion at the next meeting.
 - d. Commissioners received copies of an online broker education course to review for discussion at the next meeting.
 - e. Secretary Treasurer Jergenson discussed with the Commissioners her role as co-chair of the 2008 Bismarck-Mandan Relay for Life. Commissioners supported her participation in community events. Commissioner Cymbaluk moved, seconded by Commissioner Louser to authorize Ms Jergenson to purchase a laptop computer not to exceed \$1250 and to allow it to be used for work and home. M/C

There being no further business Chair Schlosser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Secretary Treasurer