

June 15, 2010  
8:30am CDT Conference Call  
ND Real Estate Commission  
1<sup>st</sup> Floor Conference Room  
200 E Main Ave  
Bismarck ND 58501

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

1. CALL MEETING TO ORDER. Chair Kris Sheridan called the meeting to order.
2. APPROVE MINUTES OF MARCH 17, 2010 AND APRIL 15, 2010.  
Commissioner Schlosser moved to approve the March 17, 2010 minutes as mailed, seconded by Commissioner Youngberg. M/C Commissioner Cymbaluk moved, seconded by Commissioner Schlosser, to approve the April 15, 2010 minutes as mailed. M/C
3. APPROVE FINANCIAL REPORTS FOR NOVEMBER AND DECEMBER 2009, JANUARY THROUGH MAY 2010. Executive Director Jergenson went over the financial statements for November and December 2009 and January through May 2010. Commissioners stated that they were impressed that expenses are down and congratulated staff. Jergenson noted that the following accounts may be over the budgeted amount and provided explanations why:
  - Acct #525 Office supplies: account may be over approximately \$31 due to the increased costs for Mathew Bender (law journals) as this was a legislative year.
  - Acct #514 Legal fees & Investigation Costs: account may be over approximately \$6200 unless payment of \$8449 is received by Rodney Bjornstad.
  - Acct #519 Auditing costs: account will be over approximately \$5000 however they are not over the contracted amount.
  - Acct # 522 Miscellaneous expense: account will be over about \$200.Jergenson also noted that 2 new accounts had also been created:
  - Acct # 531 Credit Card fees is a new account used to post the credit card fees.
  - Acct #532 Education Development is a new account used to post the \$5000 grant given for development of the online course.

Commissioner Youngberg asked staff to provide a written account in future Commission packets if there are significant changes in accounts that will be brought before the Commission. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the overages, new accounts and the financial reports from November and December 2009 and January through May 2010. M/C

4. REVIEW PLEDGE OF SECURITIES TO CD. Executive Director Jergenson reported that one of the CD's at Starion has been cashed in and reinvested at another financial institution so there is no longer a need to have securities pledged to the CD's at Starion.
5. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
  - a. Complaint #2009-15 M/M Jerry Kram v Craig McIvor & Joni R. Olson. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the recommendation to dismiss this complaint. M/C
  - b. Complaint # 2009-18 M/M Roger Kadrmas v Shirley K. Dukart & Doris E. Hoff. 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 #2010-03 Walter G. Bruns v Kari Winning. Discussed with items d & e.
  - d. Complaint #2010-04 Walter G. Bruns v Dennis Biliske. Discussed with items c & e.
  - e. Complaint #2010-05 Walter G Bruns v Allen J Merrill. Complaint #'s 2010-03, 2010-04 and 2010-05 were discussed at the same time as all three complaints were for the same reason. Special Assistant Attorney General Connie Hofland presented the results of her investigation of these complaints. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the recommendation of counsel to dismiss complaints 2010-03, 2010-04, and 2010-05 with a letter of explanation. M/C
  - f. Complaint #2010-06 Janis A Banasik v Dorothy J Pudwill. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Louser moved, seconded by Commissioner Cymbaluk to dismiss this complaint. M/C
  - g. Complaint # 2010-07 Rodney W. Kvalog v Morris M Pyle & Michelle N Abbott. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to dismiss this complaint. M/C
  - h. Complaint #2010-01 NDREC v James Smykowski. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Louser to set this complaint for a hearing. M/C
6. REVIEW LETTERS OF REFERENCE SUBMITTED AS REQUESTED.
  - a. Commissioners' reviewed 3 letters of reference submitted by Ashley C. Davis as requested. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to allow Ms Davis to sit for the salesperson examination. M/C
  - b. Commissioners' reviewed 2 letters of reference submitted by Mark T. Gagner as requested. Commissioner Cymbaluk moved, seconded by Commissioner Louser to allow Mr. Gagner to sit for the salesperson examination. M/C

7. REVIEW REQUEST FROM MARK EGGERS FOR WAIVER OF SALESPERSON EXPERIENCE FOR BROKER LICENSE. Mark Eggers appeared before the Commission to discuss his request for a waiver of the 2 years full time salesperson experience required to take the broker license examination. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to waive the 2 years of full time experience for Mr. Eggers and approve him to take the broker license examination. M/C
8. REVIEW LICENSE APPLICATIONS.
  - a. Commissioners reviewed the application of Robert S. Banet for a salesperson license. Commissioner Louser moved, seconded by Commissioner Youngberg to approve Mr. Banet to sit for the salesperson real estate examination. M/C
  - b. Commissioners reviewed the application of Jennifer G. Bergen for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Ms. Bergen to sit for the salesperson real estate examination. M/C
  - c. Commissioners reviewed the application of Janelle D. Cartwright for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Ms. Cartwright to sit for the salesperson real estate examination. M/C
  - d. Commissioners reviewed the application of Beverly J. Heinzen for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Ms. Heinzen to sit for the salesperson real estate examination. M/C
  - e. Commissioners reviewed the application of Jerrod T. McPherson for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Louser to request an explanation of the 1996 domestic dispute/harassment charge and run a credit report. M/C
  - f. Commissioners reviewed the application of Althea A. Marshall for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve Ms. Marshall to sit for the salesperson real estate examination. M/C
9. REVIEW TRUST ACCOUNT AND GENERAL AUDIT PROPOSALS. Commissioners reviewed the proposal submitted by Mahlum & Goodhart PC to audit the financial records of the Commission. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the proposal as submitted. M/C 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 Cymbaluk moved, seconded by Commissioner Youngberg to accept the proposal as submitted. M/C
10. REVIEW PROPOSED 2010/11 BUDGET. The 2010/11 proposed budget was reviewed in detail. Commissioners revised the proposed executive director's salary. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to accept the July 1, 2010 – June 30, 2011 budget as amended. M/C
11. CE AUDIT REPORT. Executive Director Jergenson reviewed the continuing education audit report conducted in March 2010 noting that 15% (261) of the licensees were audited and to date 4 licensees are not in compliance.

- a. Rodney Bjornstad: short 7 hrs of ce. Mr. Bjornstad took Jim Deibert's 15 hr course however he used 6 of those to comply with the ce requirement in his stipulated agreement. Mr. Bjornstad was notified via email on April 20, 2010 and in at least 2 telephone conversations. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to have legal counsel send a certified letter and copy the broker stating that Mr. Bjornstad is to provide certification that he is in full compliance with his ce no later than June 30, 2010 and make full payment of his fine. M/C
- b. Terry Ellingson: short 3 hrs of mandatory ce. Mr. Ellingson was notified via email on April 19, 2010. Commissioner Cymbaluk moved, seconded by Commissioner Louser to have legal counsel send a certified letter and copy the broker stating that Mr. Ellingson is to provide certification that he is in full compliance with his ce no later than June 30, 2010. M/C
- c. Andrew Hardy: short 16 hours. Mr. Hardy did not respond to the initial letter notifying him of the audit nor a fax sent to his office on April 21, 2010. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to have legal counsel send a certified letter and copy the broker stating that Mr. Hardy is to provide certification that he is in full compliance with his ce no later than June 30, 2010. M/C
- d. Anna Remsburg: short 3 hrs of mandatory ce. Ms Remsburg was notified via email on April 13, 2010. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to have legal counsel send a certified letter and copy the broker stating that Ms. Remsburg is to provide certification that she is in full compliance with her ce no later than June 30, 2010. M/C

Executive Director Jergenson also noted that there were 5 licensees who had not taken a minimum of 6 hours in 2008 as required by law. Staff will research rules/statutes to allow the Commission to levy a fine for non-compliance of continuing education without going through the hearing process.

12. DISCUSS UND'S REQUEST REGARDING ARELLO® CERTIFICATION FOR ONLINE CONTINUING EDUCATION. Commissioners reviewed an email dated June 2, 2010 from Nora Hubbard at UND stating that the cost of the ARELLO® distance education certification is prohibitive and requested that the North Dakota Real Estate Commission allow them to provide the course without ARELLO® certification. It was the consensus of the Commissioners that Administrative Rule 70-02-04-22 is very clear and it will be necessary for UND to maintain ARELLO® certification of their courses in order for them to be approved as continuing education.
13. REVIEW EMAIL RECEIVED FROM DAVE KINSKEY REGARDING PUBLISHING EMAIL ADDRESSES. Mr. Kinskey stated in his email that he was receiving a lot of spam and changed his email address in the Commission's data base to [ndrealestatecommission@locatethe.com](mailto:ndrealestatecommission@locatethe.com) to see if the spam was being generated from the Commission's web site. In checking with Mr. Kinskey staff was told that he had not

received any spam to his new email address. Executive Director Jergenson removed the email address stating that it was inappropriate for the real estate commission to be used as part of an email address. Commissioners felt licensees would be more apt to wanting to get their contact information out in any manner possible therefore this was a non-issue, however North Dakota Real Estate Commission cannot be used as part of an email address by anyone other than the Commission.

14. ELECTION OF OFFICERS. Commissioner Louser moved, seconded by Commissioner Cymbaluk to nominate Commissioner Youngberg as Chair and Commissioner Schlosser as Vice Chair for 2010/11. M/C
15. ARELLO® MIDYEAR CONFERENCE REPORTS: COMMISSIONERS YOUNGBERG & CYMBALUK, EXECUTIVE DIRECTOR JERGENSON. Written reports were filed for review.
16. AMP ADVISORY BOARD MEETING REPORT: EXECUTIVE DIRECTOR JERGENSON. Executive Director Jergenson filed a written report and discussed with Commissioners the changes to the real estate examinations AMP is considering:
  - a. Change the number of salesperson examination questions to 85 (there are currently 100). Their theory is that their competitors use 80. Our salesperson examination is currently 145 (140 questions to pass the exam & 5 pre-test questions). Our contract with AMP is for 145 questions.
  - b. Change the number of broker simulation questions to 9. AMP stated that the ARELLO® Exam Certification Committee would like to see the simulated broker exam the same number of questions universally. (I have not verified this with ARELLO®) Our contract is for 12 simulated examination questions – 10 scored & 2 pre-test.Commissioners asked to have AMP provide information as to why the examination standards should be lowered.
17. REVIEW CORRESPONDENCE DATED MAY 26, 2010 FROM LEON LEWIS, WASHINGTON DC REAL ESTATE COMMISSION. Leon Lewis announced in his letter dated May 26, 2010 that he was running for the position of treasurer of ARELLO® and asked for support. The ND Real Estate Commission is in support of Commissioner Youngberg in his pursuit to become the treasurer of ARELLO®.
18. ARELLO® LIST SERVES. Executive Director Jergenson asked the Commissioners if they already did or wanted to participate on any of the ARELLO® list serves. Staff will sign the Commissioners up to the list serves they are interested in.
19. HOUSING SUSTAINABILITY CONFERENCE AUGUST 30-SEPTEMBER 1, 2010. FYI for Commissioners that the Commission office has been contacted by Senator Conrad's office regarding this conference and the possibility of getting continuing education credit for it.
20. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve the requests for trust account waivers as attached to these minutes. M/C
21. COMMISSION GOALS. The goals of the Commission were reviewed.

22. OTHER BUSINESS.

- a. Executive Director Jergenson will contact TAO interactive for a bid for Phase II of the database development to be presented at the next Commission meeting.
- b. Jergenson reported to the Commission that Judson Seaman had been issued a reciprocal ND broker's license in 2007 and it had just come to light that he has not passed the managing broker examination in South Dakota therefore he should not have been issued a ND broker license. Commissioners asked staff to notify Mr. Seaman that he must comply with the managing broker requirements in SD by December 31, 2010 or his ND license will not be renewed as a broker license.
- c. The Commission office has received a few telephone calls from auctioneers regarding selling real property at auction. Commissioner Cymbaluk stated that he had spoken with Kevin Cramer at the Public Service Commission and that they would be willing to meet to discuss the situation. Staff was asked to send a letter to Mr. Cramer asking to meet with the Public Service Commission to discuss jurisdictional issues regarding auctioneers selling real property.
- d. Commissioners reviewed the application of Edmer A. Goetz for a reciprocal broker license. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve the application of Mr. Goetz if the background check comes back clean, if not his application is to come before the Commission at its next meeting. M/C
- e. It was determined that when Jim Deibert sells his pre-license course it must be resubmitted by the new owner for approval.
- f. Commissioners asked staff to send a letter to all designated brokers informing them of the mandatory course and the online and classroom options. It was also recommended to publish this information and the new ce cycle requirements on the front page of the next newsletter.
- g. Executive Director Jergenson informed the Commission that she had testified before the Administrative Rules Committee on June 10, 2010 and was optimistic that the amended rules would be approved.
- h. Commissioners looked at several thank you notes received at the Commission office.
- i. The trust account auditors noted that they are finding an increase in the lack of use of agency forms.
- j. Commissioner Youngberg told the Commission that he had stopped by RISC and was impressed with the errors and omissions insurance processing procedure.

There being no further business Chair Sheridan Adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson  
Executive Director