

June 16, 2011
8:30am CDT
North Dakota Real Estate Commission
State Capitol
Peace Garden Room
600 E Boulevard Ave.
Bismarck ND

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

1. CALL MEETING TO ORDER. Chair Youngberg called the meeting to order. All Commissioners were present.
2. APPROVE MINUTES OF APRIL 27, 2011 MEETING. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve the April 27, 2011 minutes as mailed. M/C
3. DISCUSS FINDINGS OF FACT AND CONCLUSIONS OF LAW AND
4. ORDER COMPLAINT #2010-12 NDREC V ANDREW M. HARDY. Commissioners discussed the proposed Findings of Fact and Conclusions of Law and Order that were filed by both parties regarding this complaint and the appropriate sanctions. Commissioner Cymbaluk moved, seconded by Commissioner Louser to accept the recommended order as proposed by Constance Hofland: a 90 day suspension of Mr. Hardy's real estate license, \$2000 fine, \$2655 legal/investigative costs and 3 hours of education on ethics in addition to the standard required continuing education. M/C Mr. Hardy's license suspension begins upon receipt of the Order and his license cannot be reactivated unless the 3 hours of specified education are completed and all fees and fines are paid in full. Special Assistant Attorney General Doug Bahr will draft the Findings of Fact and Conclusions of Law and Order for final approval by the Commission.
5. APPROVE NOVEMBER-DECEMBER 2010 AND JANUARY-MAY 2011 FINANCIAL REPORTS. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve all of the financial reports as presented. M/C Executive Director Jergenson explained that there are 2 accounts that may be over the budgeted amount: #510 Postage and #530 Property & Liability. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve the overages in account #'s 510 and 530. M/C
6. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
 - a. Review stipulated agreements:
 - Complaint #2011-01 Scott W Block v Janet M Wright. Special

Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Janet M. Wright in which Ms. Wright agrees to pay a fine of \$800 and \$750 legal/investigative costs within 30 days of Notice of Entry of the Order in addition to attending a 3 hour course on dual agency within 90 days of Notice of Entry of the Order. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve the Stipulation and Settlement Agreement signed by Ms. Wright. M/C

- Complaint #2011-02 Barbara A Grande v Rodney G Richter. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Rodney G Richter in which Mr. Richter agrees to pay a fine of \$1000 and \$650 legal/investigative costs within 30 days of Notice of Entry of the Order in addition to attending a 3 hour course on agency within 90 days of Notice of Entry of the Order. Commissioner Louser moved, seconded by Commissioner Schlosser to approve the Stipulation and Settlement Agreement signed by Mr. Richter. M/C
 - b. Memo on commission or referral fee to inactive licensee. Ms Hofland reviewed her memo regarding the payment of referral fees to inactive licensees. It was the consensus of the Commission to leave the statute as it is. Staff was asked to respond to Senator Lee and provide her with this information.
 - c. Consideration of legal fee increase. Ms Hofland requested an increase in her fees from \$130 per hour to \$140 per hour to be effective July 1, 2011. Commissioner Cymbaluk moved, seconded by Commissioner Louser to accept the proposed legal fee increase to \$140 per hour effective July 1, 2011. M/C
 - d. Is using Commission funds to purchase flowers or make a memorial donation permissible? Staff had contacted the Office of Management and Budget regarding this question and were told that it would be fine for the Commission to use Commission funds to purchase flowers or make a donation as long as the Commission had established an internal policy regarding such expenditures. This question was also brought to Ms Hofland who recommended to the Commission to not use Commission funds for such expenditures. It was the consensus to follow the recommendation of Ms Hofland.
 - e. Special Assistant Attorney General Connie Hofland presented the communication she has had with attorney Fallon Kelly regarding his "Are You Selling Land" advertisement. Ms Hofland will notify Mr. Kelly of the Commission's continued concern and recommend that he modify his advertisement.
6. SUGGESTED REVISION TO RETENTION SCHEDULE. Special Assistant Attorney General Connie Hofland and Executive Director Jergenson presented proposed revisions to the ND Real Estate Commission retention schedule. The most notable change is to keep cancelled licensee files for 10 years rather than the current 20 years. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve the suggested revisions to the retention schedule. M/C Staff noted that all disposed documents are shredded unless otherwise directed by the state.
7. REVIEW LICENSE APPLICATIONS.
- a. Commissioners reviewed the application of Brynn T. Balerud for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Mr. Balerud to sit for the salesperson real estate license examination. M/C
 - b. Commissioners reviewed the application of Amber S. Bender for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Ms Bender to sit for the salesperson real estate license examination. M/C

- c. Commissioners reviewed the application of Bryan A. Buhr for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Buhr to sit for the salesperson real estate license examination. M/C
- d. Commissioners reviewed the application of Andrea M. Carluen for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Ms. Carluen to sit for the salesperson real estate license examination. M/C
- e. Commissioners reviewed the application of Timothy J. Conover for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Conover to sit for the salesperson real estate license examination subject to his background check coming back with nothing more than what he has disclosed on his application. M/C
- f. Commissioners reviewed the application of Charles A. Harrison for a salesperson license. Commissioner Cymbaluk moved to deny Mr. Harrison's application. Motion died for lack of a second. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to table Mr. Harrison's application until the next meeting when it can be verified that the foreclosures and collections have been cleared and Mr. Harrison provides 2 letters of reference from North Dakota residents. M/C
- g. Commissioners reviewed the application of Sherri L. Johnson for a salesperson license. Commissioner Louser recused herself from discussion and voting on this application. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Ms. Johnson to sit for the salesperson real estate license examination. M/C
8. REVIEW CONTINUING EDUCATION AUDIT RESPONSE RECEIVED FROM PATRICK SIMMERS. This was provided for informational purposes and did not require any action.
9. BISMARCK REAL ESTATE EXAMINATION TESTING CENTER RELOCATED DUE TO FLOODING. Commissioners were informed that due to potential flooding the Bismarck examination location has temporarily been moved to a site in Mandan, ND.
10. HANDLING OF TEMPORARY REAL ESTATE OFFICE RELOCATIONS DUE TO FLOODING. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to waive any applicable fees to any licensee/firm who has to temporarily relocate due to flooding. M/C
11. REVIEW GENERAL AUDIT PROPOSAL SUBMITTED BY MAHLUM GOODHART, PC. Commissioners reviewed the proposal submitted by Mahlum Goodhart, PC to conduct the annual audit of the Commission's financial statements. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the proposal. M/C
12. REVIEW PROPOSED 2011/12 BUDGET. The 2011/12 proposed budget was reviewed in detail. Chair Youngberg asked Commission Schlosser to take over the meeting at this time. Commissioner Youngberg discussed the printing of the license law books and the need to place more focus on the items available on the website in the newsletter. Commissioner Youngberg moved, seconded by Commissioner Sheridan to limit the number of license law books printed and their distribution to approximately 500-750 and to promote access to this information being available on the website. M/C The Chair was surrendered back to Commissioner Youngberg. Commissioners revised the proposed salary for the executive director and approved a 3% increase. The 2011/12 budget was approved with the changes discussed.
13. ELECTION OF 2011/12 OFFICERS. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to elect Commissioner Jerry Schlosser Chair and Commissioner Diane Louser Vice Chair for the next fiscal year. M/C

14. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve the requests for trust account waivers as attached to these minutes. M/C After reviewing NDCC § 43-23-14.1 Commissioner Sheridan moved, seconded by Commissioner Louser to grant the Executive Director the ability to approve requests for trust account waivers and report such to the Commission. M/C
15. COMMISSION GOALS. The goals of the Commission were reviewed.
16. OTHER BUSINESS.
 - a. The possible effects of new legislation regarding good funds (NDCC § 47-34) was discussed. Staff was directed to discuss this with Ms Hofland and report back to the Commission. Moni Krantz, NDAR, was asked to get an interpretation from NDAR legal counsel as well.
 - b. Executive Director Jergenson asked Commissioners if anyone would like to participate in the review of the state examination questions.
 - c. Staff noted that letters of intent to run for ARELLO® President-Elect (Leon Lewis/District of Columbia) and Treasurer (Jeanne Jackson-Heim/Idaho) were received.
 - d. Executive Director Jergenson provided information on the 2012 ARELLO® District 2 & 3 Conference plans to date and stressed the need to get sponsors.
 - e. Executive Director Jergenson shared with the Commission that she would like to take 3 days in July to stay with her sister in law who is undergoing treatment for cancer but that she will be 17 hours short on annual leave time. Ms Jergenson asked the Commission if she could be allowed to make up the time she would be short. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to not require Ms. Jergenson to make up the hours in July and grant her them off. M/C

There being no further business Chair Youngberg adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director