

March 25, 2009
8:00 am CDT Conference Call
ND Real Estate Commission
200 E Main Ave Suite 204
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. Roll call was taken.
8. APPEARANCES REGARDING REQUESTS FOR HEARING ON DENIED OR TABLED APPLICATIONS.
 - (b) Chair Cymbaluk moved to item #8(b) on the agenda so Mr. Kramer could address the Commission regarding his salesperson license application. Mr. Kramer explained the circumstances that caused the issue with the North Dakota Securities Department. Commissioner Youngberg moved, seconded by Commissioner Sheridan to table a decision on Mr. Kramer's application until the next meeting at which time Mr. Kelly Mathais, ND Securities Department investigator, will appear and a letter will be provided to the Commission. M/C
2. APPROVE MINUTES OF DECEMBER 18, 2008 AND MARCH 10, 2009 MEETINGS. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the minutes from December 18, 2008 and March 10, 2009. M/C
3. APPROVE FINANCIAL REPORTS FOR DECEMBER 2008, JANUARY AND FEBRUARY 2009. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the financial reports for December 2008, January 2009 and February 2009. M/C Executive Director Jergenson noted that the savings account is earning .7% interest and asked Commissioners to consider putting some of the money from the savings account into CDs. It was the consensus to have the Executive Director determine the amount and length of time when purchasing CD's.
4. REVIEW FINDINGS OF FACT, CONCLUSIONS OF LAW, & ORDER COMPLAINT #2008-08 JEFFREY A. RIEPL V SANDRA L. RETTERATH. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the Findings of Fact, Conclusions of Law, and Order to dismiss the complaint as written. M/C

5. REVIEW FINDINGS OF FACT, CONCLUSIONS OF LAW, & ORDER COMPLAINT #2008-09 & 2008-10 KEITH D. DANKS V. KENNETH D. WELTER. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve the Findings of Fact, Conclusions of Law, and Order as written. M/C
6. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
 - a. Complaint # 2007-12 NDREC v Todd Nedberg. Special Assistant Attorney General Connie Hofland stated that Mr. Nedberg had been properly served however he did not respond. Ms Hofland recommended that the complaint be deemed admitted and that the Commission issue an order against Mr. Nedberg in default. Commissioner Schlosser moved, seconded by Commissioner Louser to issue an order against Mr. Nedberg in default and assess him a fine of \$1000 and investigative/legal costs. M/C
 - b. Complaint # 2008-05 NDREC v Richard Ward. Special Assistant Attorney General Connie Hofland stated that Mr. Ward had been properly served however he did not respond. Ms Hofland recommended that the complaint be deemed admitted and that the Commission issue an order against Mr. Ward in default. Commissioner Youngberg moved, seconded by Commissioner Louser to issue an order against Mr. Ward in default and assess him a fine of \$2500 and investigative/legal costs. M/C
 - c. Complaint # 2008-06 NDREC v Shawn Huber. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint recommending that the matter be set for hearing and acceptance of a stipulated agreement. Commissioner Sheridan moved, seconded by Commissioner Youngberg to set this complaint for hearing. M/C Commissioner Sheridan moved, seconded by Commissioner Schlosser to accept the proposed stipulated agreement in which Mr. Huber agrees to not apply for a real estate license for 3 years. M/C
 - d. Complaint # 2008-04 NDREC v Frederick Skoda. Special Assistant Attorney General Connie Hofland stated that this complaint resulted from Mr. Skoda not responding to requests for trust account documents and should be investigated further. She will present an official memo to the Commissioners at the next meeting of the Commission. Commissioner Youngberg moved, seconded by Commissioner Louser to table discussion on this complaint until the next meeting. M/C
 - e. Complaint # 2008-11 NDREC v Brian Gullickson. Special Assistant Attorney General Connie Hofland stated that Mr. Gullickson is currently out of the country and she is unable to get adequate service to process until he returns to the United States. Commissioner Youngberg moved, seconded by Commissioner Schlosser to table discussion on this complaint until respondent can be adequately served. M/C

- f. Complaint # 2008-13 M/M Todd Haarsager v Rodney Bjornstad. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Youngberg moved, seconded by Commissioner Louser to set this complaint for hearing. M/C
 - g. Complaint # 2008-14 Antony Barnes v Kevin L. Vannett & Patricia A. Vannett. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Louser to dismiss this complaint. M/C
7. REPORT FROM MAHLUM & GOODHART PC REGARDING FINDINGS IN A TRUST ACCOUNT AUDIT. Commissioners reviewed the trust account audit report from Mahlum & Goodhart regarding findings in the audit of Daniel Ringuette, NDak/Min 1st Choice Assist 2 Sell. Commissioner Youngberg moved, seconded by Commissioner Sheridan to file a complaint against Mr. Ringuette. M/C
8. APPEARANCES REGARDING REQUESTS FOR HEARING ON DENIED OR TABLED APPLICATIONS:
 - a. Michael J. Hettwer had requested a hearing before the Commissioners but he did not appear.
 - b. Mr. Kramer addressed the Commission earlier in the meeting.
 - c. Michael J. Syvertson called into the conference call regarding the denial of his application for a salesperson license to explain the discrepancies. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Mr. Syvertson to sit for the salesperson real estate examination subject to receiving a letter of recommendation from Randy Schwartz, the broker under whom he plans to be licensed. M/C
9. DISCUSS CORRESPONDENCE DATED 1/5/09 RECEIVED FROM THE BISMARCK-MANDAN BOARD OF REALTORS®. Discussion of this letter included the following points: when the Commission reviews a request for an exemption of the experience required prior to taking the broker license examination; items such as the substantial experience of the applicant, education, experience in management, marketing, negotiations, sales and contracts are considered. The Commissioners take their responsibility very seriously and with careful thought make the determination of a waiver. The Commission follows the open records law. A letter will be sent to the Bismarck-Mandan Board of REALTORS® and copied to Jill Beck, EVP of the North Dakota Association of REALTORS®.
10. DISCUSS CORRESPONDENCE DATED 3/12/09 RECEIVED FROM THE NORTH DAKOTA ASSOCIATION OF REALTORS®. This agenda item was combined with agenda item #9.
11. ADVERTISING QUESTION REGARDING OPEN HOUSE SIGNAGE. The following question was posed: "If an open house sign has the company name on it does it also have to have the company contact information on it to be in compliance with the advertising rule?" Discussion. The contact information is not necessary on the open house sign as the company contact information is readily available on the "For Sale" sign. The

newspaper ad for the open house would also contain the contact information. This will be added to the Q&A for Advertising.

12. PROCEDURAL QUESTION REGARDING DATE ON APPLICATION AND TIMEFRAME ON ESTABLISHING RESIDENCY. Staff posed the following scenario and question: “The process for applying for a non-resident real estate license has started while the applicant lives out of state, then the applicant moves to ND and lives here for 30 days before all of the paperwork is completed. Is that applicant processed as a non-resident because of the date the application process started or now that they have become a resident of ND do they fall under the licensing requirements for ND licensees?” Consensus is that as long as the process was started prior to moving to North Dakota they should continue to be processed as a non-resident.
13. REVIEW APPLICATIONS FOR SALESPERSON LICENSES.
 - a. Commissioners reviewed the application of David J. Braaten for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Mr. Braaten to sit for the salesperson real estate examination. M/C
 - b. Commissioners reviewed the application of Christopher R. Larson for a salesperson license. Commissioner Louser moved, seconded by Commissioner Sheridan to approve Mr. Larson to sit for the salesperson real estate examination. M/C
 - c. Commissioner Sheridan recused herself from discussion and vote on this applicant. Commissioners reviewed the application of Brittany E. Moen for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Ms. Moen to sit for the salesperson real estate examination. M/C
 - d. Commissioners reviewed the application of Linda C. Reynolds for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Schlosser to approve Ms. Reynolds to sit for the salesperson real estate examination subject to a search of discipline data bank showing no violations. M/C
 - e. Commissioners reviewed the application of Sam W. Robertson for a salesperson license. Commissioner Louser moved, seconded by Commissioner Youngberg to approve Mr. Robertson to sit for the salesperson real estate examination. M/C
 - f. Commissioners reviewed the application of Scott G. Zukowski for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to request additional information regarding the probation violations and a letter of recommendation from Acme Electric. M/C
14. REVIEW 2009 REAL ESTATE LICENSE RENEWAL STATS. Commissioners reviewed the 2009 license renewal statistics. Executive Director Jergenson noted that staff did a compliance check and 24% of the companies did not have their trade names properly registered with the Secretary of State.

15. DISCUSS LATE FEES ASSESSED TO OAKTREE LLP, REALTORS. Commissioners reviewed emails received from Lavata Becker requesting the late fees assessed to the real estate license renewals received from Oaktree LLP Realtors be waived. Commissioner Youngberg moved, seconded by Commissioner Sheridan to uphold the assessment of the late fees. M/C
16. EMAIL FROM MICK BERGERON. Commissioners received an email from Mick Bergeron regarding his retirement from real estate in which he stated “The exemplary help of the North Dakota Real Estate Commission has made it a very rewarding lifelong career”.
17. REVIEW 2009 RENEWALS WITH AFFIRMATIVE RESPONSES TO QUESTIONS REGARDING CRIMINAL CHARGES OR LAWSUITS. Commissioners reviewed a report of 2009 licensees who reported financial issues, felonies or misdemeanors on their 2009 license renewal form.
18. DISCUSS LICENSE RENEWAL PROCESS. Commissioners discussed the license renewal process as it is currently done and how to streamline the procedure with the goal of moving towards online license renewal. Points discussed were:
 - once the broker and the company have properly renewed, individual licensees can be renewed as they are submitted rather than processing the company as a whole
 - designated brokers will still be required to certify the ce of their licensees
 - E&O certification will still need to be provided for each licensee
 - revise the renewal forms
 - staff to research if the year seals are required by statute
 - the designated broker will determine if the company will renew online or by paperwork – however it has to be one or the other
 - when the online renewal is rolled out licensees will be notified by email & print
 - a read receipt on the broadcast email renewal notification should be requiredStaff will use these guidelines in the development of the software for online license renewal. It was determined that there was no need for statute or administrative rule changes regarding license renewal at this time.
19. SPRING NEWSLETTER ARTICLE FROM THE CHAIR. Chair Cymbaluk provided his article to the Commissioners.
20. RESPONSE FROM RISC REGARDING OBTAINING E&O INSURANCE ONLINE. Cindy Rice Grissom, RISC insurance, responded to an inquiry from staff regarding the availability to our licensees to purchase errors and omissions insurance online stating that due to the small number of licensees in North Dakota, it was determined that it would not be cost effective to offer online enrollment.
21. REVIEW TERMINATION OF RECIPROCAL AGREEMENTS FROM COLORADO, IDAHO, MONTANA, AND WYOMING. The Commission has received notification of the termination of reciprocal agreements from the following states (effective dates in parenthesis): Colorado (January 31, 2009), Idaho (March 23, 2009), Montana (December 12, 2008), and Wyoming (May 1, 2009). The state of Colorado offered ND licensees the opportunity to become licensed in Colorado if our state would agree to their new

- program. Commissioner Sheridan moved, seconded by Commissioner Youngberg to drop the reciprocal agreement with Colorado and require non-resident applicants to take the state real estate license examination in accordance with our statutes. M/C
22. DISCUSS ALLOCATING FUNDS FOR ATTENDANCE AT THE ARELLO DISTRICT CONFERENCE. The date for the 2009 District 3 ARELLO conference has been scheduled so that it now falls in the current fiscal year budget. Executive Director Jergenson presented approximate costs for herself and 2 Commissioners to attend. Commissioner Sheridan moved, seconded by Commissioner Youngberg to allocate funds for commissioners and staff to attend the conference. M/C
23. DISCUSS OFFICE LEASE PROPOSAL. Executive Director Jergenson provided Commissioners with information on comparative square foot commercial lease amounts. The proposal from our landlord was: 3 year lease at current rent of \$1100/month or a 5 year lease at \$1150/month. Commissioner Sheridan moved, seconded by Commissioner Youngberg to have Executive Director negotiate a 5 year lease. M/C
24. NDAR LEGISLATIVE IMPACT DAY CONTINUING EDUCATION COURSE. Executive Director Jergenson expressed her disappointment and concerns with the Legislative Impact Day continuing education course sponsored by NDAR. She noted that she had personally expressed her concerns with the NDAR Education Committee and Jill Beck, NDAR EVP about the course content and schedule. Commissioner Sheridan moved, seconded by Commissioner Youngberg to send a letter to NDAR expressing the concerns, the responsibility of the course provider to adhere to the statutes and the Commission's responsibility to ensure enforcement. M/C
25. CONTRACT WITH AMP. The contract for providing real estate license examinations with AMP is due to expire on June 30, 2009. Commissioner Youngberg moved, seconded by Commissioner Louser to consider a one year contract extension with AMP and start the process to send out RFP's to examination providers. M/C
26. SUBDIVIDED LAND REGISTRATION REQUESTS. Commissioner Youngberg moved, seconded by Commissioner Schlosser to table this agenda item until the next meeting. M/C
27. DISCUSS NUMBER OF LICENSEES TO BE AUDITED FOR CONTINUING EDUCATION COMPLIANCE. Commissioner Schlosser moved, seconded by Commissioner Youngberg to audit 15% of the active licensees. M/C
28. ARELLO STRATEGIC PLANNING MEETING REPORT: COMMISSIONERS CYMBALUK AND YOUNGBERG, EXECUTIVE DIRECTOR JERGENSON. Commissioners Cymbaluk and Youngberg and Executive Director Jergenson filed written reports. It was noted that the filed reports are appreciated by the other Commissioners.
29. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve the requests for trust account waivers as attached to these minutes. M/C
30. COMMISSION GOALS. Commissioners reviewed the list of goals.

31. OTHER BUSINESS:

- a. Commissioners had received letters from a licensee who wanted to transfer but the broker would not sign the transfer form and release the license and the licensee's broker. It appeared that the issue was a monetary issue and not one of violation of statutes. Commissioner Schlosser moved, seconded by Commissioner Sheridan to allow the license to be transferred. M/C
- b. Commissioners reviewed an email from Steve Lesmeister regarding the cancellation of his salesperson license for non-renewal. Commissioner Schlosser moved, seconded by Commissioner Sheridan to deny Mr. Lesmeister's request citing NDCC § 43-23-13.1. M/C

There being no further business Chair Cymbaluk adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director