

March 26, 2013
8:00am Central Time
North Dakota Real Estate Commission
Conference Room (1st Floor)
200 E Main Ave
Bismarck ND

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

1. CALL MEETING TO ORDER. Chair Louser called the meeting to order. Roll call was taken. All members were present.
2. APPROVE MINUTES OF DECEMBER 11, 2012 MEETING. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the minutes of December 11, 2012. M/C
3. TRUST ACCOUNT AUDIT FINDINGS: RHONDA MAHLUM/MAHLUM GOODHART PC.
 - a. Apple Realty/Jerome Voegele. Ms. Mahlum reported on recurring violations regarding the trust account of Jerome Voegele, broker for Apple Realty. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to file a complaint against Mr. Voegele for repeated trust account violations offering the abbreviated process with a stipulated agreement which is to include a 3 hour class on agency not to be used as part of the 9 hours of required continuing education for 2013. M/C
 - b. Century 21 Landmark Realty, Inc. /Edie Bachmeier. Ms. Mahlum reported on recurring violations regarding the trust account of Edie Bachmeier, broker for Century 21 Landmark Realty Inc. Commissioner Sheridan moved, seconded by Commissioner Schlosser to file a complaint against Ms. Bachmeier for repeated trust account violations offering the abbreviated process with a stipulated agreement which is to include submitting their trust account bank reconciliation monthly for one year. M/C
 - c. Dakota Properties/Don Pierce. Ms. Mahlum reported on recurring violations regarding the trust account of Don Pierce, broker for Dakota Properties. Commissioner Sheridan moved, seconded by Commissioner Youngberg to file a complaint against Mr. Pierce for repeated trust account violations offering the abbreviated process with a stipulated agreement which is to include a 3 hour class on agency not to be used as part of the 9 hours of required continuing education for 2013. M/C
 - d. Everett Real Estate Inc. /Joe Frenzel. Ms. Mahlum reported on recurring violations regarding the trust account of Joe Frenzel, broker for Everett Real Estate Inc. Commissioner Youngberg moved, seconded by Commissioner Sheridan to file a complaint against Mr. Frenzel for repeated trust account violations offering the abbreviated process with a stipulated agreement which is to include a 3 hour class on agency not to be used as part of the 9 hours of required continuing education for 2013. M/C

- e. First Realty of Bismarck Inc. /Bob Schmidt. Ms. Mahlum reported on recurring violations regarding the trust account of Bob Schmidt, broker for First Realty of Bismarck Inc. Commissioner Schlosser moved, seconded by Commissioner Youngberg to file a complaint against Mr. Schmidt for repeated trust account violations offering the abbreviated process with a stipulated agreement which is to include a 3 hour class on agency not to be used as part of the 9 hours of required continuing education for 2013. M/C
 - f. LaDuke & Associates Real Estate Inc. /Gary Bleth. Ms. Mahlum reported on recurring violations regarding the trust account of Gary Bleth, broker for LaDuke & Associates Real Estate Inc. Commissioner Youngberg moved, seconded by Commissioner Schlosser to file a complaint against Mr. Bleth for repeated trust account violations offering the abbreviated process with a stipulated agreement which is to include a 3 hour class on agency not to be used as part of the 9 hours of required continuing education for 2013. M/C
 - g. Northwest Realty Group LLC/Bill Chaussee. Ms. Mahlum reported on recurring violations regarding the trust account of Bill Chaussee, broker for Northwest Realty Group LLC. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to file a complaint against Mr. Chaussee for repeated trust account violations offering the abbreviated process with a stipulated agreement which is to include submitting their trust account bank reconciliation monthly for one year and a 3 hour class on agency not to be used as part of the 9 hours of required continuing education for 2013. M/C
 - h. Oaktree LLP, REALTORS®/Lavata Becker. Ms. Mahlum reported on recurring violations regarding the trust account of Lavata Becker, broker for Oaktree LLP, REALTORS®. Commissioner Youngberg moved, seconded by Commissioner Schlosser to file a complaint against all of the acting brokers of Oaktree LLP REALTORS® since 2006 for repeated trust account violations offering the abbreviated process with a stipulated agreement which is to include one fine and the requirement that each of those brokers take a 3 hour class on agency not to be used as part of the 9 hours of required continuing education for 2013. M/C
 - i. West Plains Realty, Inc. /Terrence Clement. Ms. Mahlum reported on recurring violations regarding the trust account of Terrence Clement, broker for West Plains Realty, Inc. Commissioner Sheridan moved, seconded by Commissioner Youngberg to file a complaint against Mr. Schmidt for repeated trust account violations offering the abbreviated process with a stipulated agreement which is to include a 3 hour class on agency not to be used as part of the 9 hours of required continuing education for 2013. M/C
 - j. Commissioners were asked if trust account audits should be conducted on non-resident brokers who have trust accounts located in North Dakota. It was the consensus of the Commissioners that an audit should be done when the trust account is located in North Dakota.
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND.
- a. Complaint #2012-22 NDREC v Michael G. Sims. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Schlosser to set this complaint for a hearing. M/C
 - b. Complaint #2013-01 Anthony G. Broeren v Michael H. Blazek. Special Assistant Attorney General Connie Hofland stated that her investigation of this complaint has been minimal as it is in litigation at this time. Commissioner Youngberg moved, seconded by Commissioner Sheridan to table this complaint until the civil litigation is resolved, if not resolved Ms. Hofland will conduct an investigation of the complaint. M/C
 - c. Complaint #2013-02 M/M Lesly Buchmann v Randall L. Fix. Special Assistant Attorney General Connie Hofland noted that the complainant had asked to have the complaint withdrawn however she still conducted an investigation and presented the results of her investigation. Commissioner

Youngberg moved, seconded by Commissioners Cymbaluk to accept the recommendation of counsel and dismiss the complaint. M/C

- d. Report on unlicensed activity letters. Special Assistant Attorney General Connie Hofland asked that in the interest of time this item be placed on the agenda for the next meeting.
5. REVIEW TABLED APPLICATION OF ROBERT L. TIMM. Chair Louser recused herself and turned the meeting over to Vice Chair Cymbaluk. Special Assistant Attorney Hofland provided a brief review and led the discussion on the issues in question. Mr. Timm, who was present in person, addressed the issues brought forward regarding his application. Commissioner Youngberg moved, seconded by Commissioner Schlosser to continue to table Mr. Timm's application, request specific information of the alleged incidents as well as statements from the 4 agents Mr. Timm stated had had positive transactions with him, and review current copies of his web pages. M/C Vice Chair Cymbaluk returned the Chair to Commissioner Louser.
6. REVIEW BROKER LICENSE APPLICATION OF DOROTHY J. PUDWILL AND RESPONSES. Commissioners reviewed the Applicant Inspection Questionnaires from Ms. Pudwill's previous brokers. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to deny Ms. Pudwill's application for a broker license. M/C
7. REQUESTS FOR WAIVER TO OBTAIN BROKER LICENSE.
 - a. Michael G. Bogsted appeared in person before the Commission to address his request for a waiver of the 2 year salesperson experience and issues on his credit report. Commissioner Sheridan moved, seconded by Commissioner Schlosser to waive the 2 year salesperson experience and allow Mr. Bogsted to take the broker license exam once he has provided proof to staff that the federal tax lien and items in collection have been paid. M/C
 - b. Dalton D. Jose appeared in person before the Commission to address his request for a waiver of the 2 year salesperson experience. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Mr. Jose to sit for the North Dakota state portion of the real estate examination. M/C
 - c. Commissioners reviewed the request from Kevin J. McDonnell for a waiver of the 2 year salesperson experience. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to deny Mr. McDonnell's request for a waiver, recommending that Mr. McDonnell test as a salesperson and that his broker license application fee can be applied to the salesperson application. M/C
8. REVIEW LICENSE APPLICATIONS.
 - a. Commissioners reviewed the application of Terri Jo Craig for a reciprocal broker license. Ms. Craig appeared in person before the Commission to address issues on her credit report. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Ms. Craig's application for a reciprocal broker real estate license. M/C
 - b. Commissioner Sheridan recused herself from discussion and vote on the application of Shane K. Cullen. Commissioners reviewed the application of Shane K. Cullen for a salesperson license. Mr. Cullen joined the meeting via conference call to explain that he had not disclosed 3 misdemeanor charges on his application intentionally. Mr. Cullen had been approved and has taken and passed the salesperson license examination prior to his bringing these items to the attention of the staff. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve the issuance of Mr. Cullen's salesperson license. M/C

- c. Commissioners reviewed the application of Jon C. Fahning for a reciprocal broker license. Mr. Fahning joined the meeting via conference call to explain his credit situation. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Mr. Fahning's application for a reciprocal broker license. M/C
 - d. Commissioners reviewed the application of Delene M. Fettig for a salesperson license. Ms. Fettig appeared in person before the Commission to address issues on her credit report. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve Ms. Fettig to sit for the salesperson real estate license examination. M/C
 - e. Commissioners reviewed the application of James E. Haarstad for a reciprocal broker license. Mr. Haarstad's broker, Barbara A. Grande, provided information pertaining to an item on Mr. Haarstad's credit report. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve Mr. Haarstad's application for a reciprocal broker license. M/C
 - f. Commissioners reviewed the application of Christopher C. Hauck for a reciprocal salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to deny Mr. Hauck's application for a reciprocal salesperson license based on the violation that appeared on his Minnesota Certificate of Licensure. M/C Mr. Hauck then joined the meeting via conference call to explain the civil penalty he agreed to with the Minnesota Department of Commerce. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to accept Mr. Hauck's explanation and approve the issuance of a reciprocal salesperson license. M/C
 - g. Commissioners reviewed the application of Sanna Littell for a salesperson license. Ms. Littell joined the meeting via conference call to address issues on her credit report. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to table Ms. Littell's application until September/October 2013 or until Ms. Littell provides documentation that the items on her credit report are cleared up. M/C
 - h. Commissioners reviewed the application of Leslie C. Medenwald for a reciprocal salesperson license. Ms. Medenwald provided via email an explanation to the issue on her credit report. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Ms. Medenwald's application for a reciprocal salesperson license. M/C
 - i. Commissioners reviewed the application of John J. Mitzel for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Mr. Mitzel to sit for the salesperson real estate license examination. M/C
 - j. Commissioners reviewed the application of Kirsty M. Prater for a salesperson license. Ms. Prater joined the meeting via conference call. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Ms. Prater to sit for the salesperson real estate license examination. M/C
 - k. Commissioners reviewed the application of Richard L. Weinstein for a salesperson license. Mr. Weinstein appeared in person before the Commission to address issues on his credit report stating that loan modification was in place. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve Mr. Weinstein to sit for the salesperson real estate license examination. M/C
9. APPEAL OF DENIED NON-RESIDENT BROKER APPLICATION OF JOSHUA J. HANSON.
Executive Director Jergenson stated that Mr. Hanson was applying for a reciprocal license and that his application had been denied at the December 11, 2102 Commission meeting due to items on his credit report. Mr. Hanson was present at the meeting to appeal the denial and discuss his credit issues. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to not change the Commission's previous action on Mr. Hanson's application therefore his application remains denied. M/C

10. CAN-DO AUCTION & REAL ESTATE ADVERTISEMENT. Commissioners reviewed mailed advertising material as well as a copy of the CAN-DO Auction & Real Estate web site in which numerous violations of Administrative Rule 70-02-03-02.1 were found. Commissioner Sheridan moved, seconded by Commissioner Schlosser to file complaints against Ken Bulie and Tom McKinnon and notify Fred Sorenson regarding unlicensed activity. M/C
11. ARELLO® BROKER'S GUIDE TO CREATING A POLICY AND PROCEDURE MANUAL. Executive Director Jergenson provided each of the Commissioners a copy of the ARELLO® Broker's Guide to Creating a Policy & Procedure Manual and stated that it is posted on the Commission's web site. The manual will also be mentioned in the next Commission newsletter.
12. OFFICE SPACE. Executive Director Jergenson discussed the proposed office lease for 1110 College Dr. Suite 207 in Bismarck, ND, moving costs and moving date. Commissioner Youngberg moved to authorize Executive Director Jergenson to sign the lease, negotiate the fees for others to use our conference room, and to authorize up to \$10,000 for moving expenses otherwise the Commission must give approval for costs over \$10,000. M/C Target date to be in the new location is by June 1, 2013.
13. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the December 11, 2012 meeting. A list of those waivers is attached to these minutes.
14. SCHEDULE NEXT COMMISSION MEETING. The consensus was to schedule the next Commission meeting for 8:00 am May 9, 2013.
15. COMMISSION GOALS. The goals of the Commission were reviewed.
16. OTHER BUSINESS:
 - a. Executive Director Jergenson expressed her concern over the following process: when granting a waiver of the 2 year salesperson experience to broker applicants who have moved to ND, the examination they take is the broker simulation exam. They have never taken the state portion of the exam as they did not initially get their salesperson license in ND. Her concern is that we may not be protecting the consumer by not ensuring that they have passed the state portion of the exam – all the applicant does is check “yes” on the application that they have read the law. Commissioners asked Special Assistant Attorney General Connie Hofland to research whether or not these applicants can be required to take the state portion of the license examination under current statute or if a statute or administrative rule change is needed.

There being no further business the meeting was adjourned.

Respectfully submitted,

Patricia M. Jergenson
Executive Director