

May 26, 2005
Pearce & Durick Law Firm
Bismarck, ND
8:00 AM

Present: Kris Sheridan/Chair, Jerry Youngberg/Vice Chair, Jerry Schlosser/Member, Diane Louser/Member, Roger Cymbaluk/Member, David Reich/Legal Counsel, Patricia M. Jergenson/Secretary Treasurer

1. CALL TO ORDER. Chair Kris Sheridan called the meeting to order and welcomed those present.
2. APPROVE MINUTES OF MARCH 17, 2005 MEETING. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the minutes of the March 17, 2005 meeting. M/C
3. APPROVE FINANCIAL REPORTS FOR MARCH AND APRIL 2005. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the financial reports for March and April 2005.
4. LEGAL UPDATE. Legal counsel Dave Reich informed the Commissioners that there is currently 1 complaint under investigation which was received May 17, 2005. He also informed the Commission that Michael Puklich has not provided a written response as requested in correspondence dated March 10, 2005. Mr. Reich recommended that the Commission file a complaint and that a hearing be set. Commissioner Schlosser moved, seconded by Commissioner Louser to issue a complaint against Mr. Puklich and set the matter to a hearing. M/C Mr. Reich reported that his research regarding the Commission's jurisdiction over a broker's license when the broker's company is charged with fraud found that there is little the Commission can do when it is the corporation, not the individual, charged with fraud. Commissioner Cymbaluk moved, seconded by Commissioner Louser to not pursue any further action regarding this matter. M/C (4 ayes, 1 nay Commissioner Schlosser).
5. REVIEW APPLICATIONS FOR SALESPERSON LICENSE. The issue of bankruptcies on salesperson applications was discussed. Mr. Reich noted that NDCC 43-23-05 and 70-02-02-03(6) (g) reflect the Commission's responsibility to ask about credit history. Commissioner Youngberg moved, seconded by Commissioner Schlosser to authorize Secretary Treasurer Jergenson to establish a relationship with a credit reporting service to do credit reports and that the applicant will be responsible for payment of the credit report. M/C Staff was asked to place background checks on the next agenda.

- a. Commissioners reviewed the application for a salesperson license from Michelle D. Ahern. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve Michelle Ahern to sit for the real estate exam. M/C
- b. Commissioners reviewed the application for a salesperson license from Shannon R. Barnum. Commissioner Schlosser moved, seconded by Commissioner Louser to deny the application of Shannon Barnum. M/C (4 ayes, 1 nay Commissioner Louser) If Ms Barnum requests a hearing the Commission requests a new credit report.
- c. Commissioners reviewed the application for a salesperson license from Dallas J. Beltz. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to deny the application of Dallas Beltz. M/C If Mr. Beltz requests a hearing the Commission requests 2 letters of reference and an explanation regarding the past due accounts on his credit report.
- d. Commissioners reviewed the application for a salesperson license from Alana M. Erickson. Ms Erickson provided documentation that the tax matter with MN has been resolved. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Alana Erickson to sit for the real estate exam. M/C
- e. Commissioners reviewed the application for a salesperson license from Joshua B. Gross. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to request more information regarding the trespassing conviction on Mr. Gross' application. M/C
- f. Commissioners reviewed the application for a salesperson license from Dean R. Gunsch. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to deny the application of Dean R. Gunsch due to lack of information regarding the "prosecutorial diversion" felony charge on his application. M/C
- g. Commissioners reviewed the application for a salesperson license from Tamara M. Hennessey. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to deny the application of Tamara Hennessey due to unpaid tax liens. M/C
- h. Commissioners reviewed the application for a salesperson license from Wayde T. Holte. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to deny the application of Wayde Holte due to the fact that he has a pending court appearance. M/C
- i. Commissioners reviewed the application for a salesperson license from Kelly P. Johnson. Commissioner Cymbaluk moved, seconded by Commissioner Louser to request more information from Mr. Johnson regarding the misdemeanor charge on his application and letters of reference from his last 2 employers. M/C
- j. Commissioners reviewed the application for a salesperson license from Sean J. Moltzan. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Sean Moltzan to sit for the real estate exam. M/C
- k. Commissioners reviewed the application for a salesperson license from Terry K. Murphy. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to deny the application of Terry Murphy due to the felony conviction and recent bankruptcy on his application. M/C
- l. Commissioners reviewed the application for a salesperson license from David J. Nord. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve David Nord to sit for the real estate exam. M/C

- m. Commissioners reviewed the application for a salesperson license from Gina M. Norton. Commissioner Cymbaluk moved, seconded by Commissioner Louser to deny the application of Gina Norton. M/C If Ms. Norton requests a hearing the Commission requests 2 letters of recommendation.
- n. Commissioners reviewed the application for a salesperson license from Linda J. Perala. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Linda Perala to sit for the real estate exam. M/C
- o. Commissioners reviewed the application for a salesperson license from Orlanda P. Polasky. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Orlanda Polasky to sit for the real estate exam. M/C
- p. Commissioners reviewed the application for a salesperson license from Holly J. Pope. Commissioner Youngberg moved, seconded by Commissioner Schlosser to approve Holly Pope to sit for the real estate exam. Commissioner Louser abstained from voting. M/C
- q. Commissioners reviewed the application for a salesperson license from Rodney G. Richter. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Rodney Richter to sit for the real estate exam. M/C
- r. Commissioners reviewed the application for a salesperson license from Stacey R. Rohloff. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Stacey R. Rohloff to sit for the real estate exam. M/C
- s. Commissioners reviewed the application for a salesperson license from Mari E. Ronning. Commissioner Cymbaluk moved, seconded by Commissioner Louser to deny the application of Mari Ronning subject to an explanation of past due accounts and 2 letter of recommendation. M/C
- t. Commissioners reviewed the application for a salesperson license from Rick J. Stremick. Commissioner Louser moved, seconded by Commissioner Cymbaluk to request more information regarding the felony on his application. M/C
- u. Commissioners reviewed the application for a salesperson license from Dan R. Sturlaugson. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to deny the application of Dan Sturlaugson. M/C If Mr. Sturlaugson requests a hearing the Commission would like a new credit report.
- v. Commissioners reviewed the application for a salesperson license from Jennifer L. Sturlaugson. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Jennifer Sturlaugson to sit for the real estate exam. M/C
- w. Commissioners reviewed the application for a salesperson license from Kevin L. Vannett. Commissioner Cymbaluk moved, seconded by Commissioner Louser to deny the application of Mr. Vannett and request a credit report in his name only. M/C
- x. Commissioners reviewed the application for a salesperson license from John A. Welte. Commissioner Louser moved, seconded by Commissioner Youngberg to deny the application of Mr. Welte due to the late child support situation. M/C
- y. Commissioners reviewed the application for a salesperson license from Keith Zerface. Commissioner Schlosser moved, seconded by Commissioner Youngberg to deny the application of Keith Zerface. M/C

6. REQUEST FOR HEARING ON DENIED APPLICATIONS.
 - a. Keith E. Mecham, Jr. appeared before the Commission to appeal the denial of his application for a salesperson license. He also provided letters of recommendation. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to allow Mr. Mecham to sit for the real estate exam. M/C
 - b. William Shirk appeared before the Commission to discuss the possibility of the Commission accepting a bond covering his tax liens and then giving him approval to take the real estate exam. Commissioner Schlosser moved, seconded by Commissioner Louser that the denial of Mr. Shirk's application stands. M/C
 - c. Jolene Case appeared before the Commission to appeal the denial of her application for a real estate salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Louser to deny Ms. Case's appeal due to her credit report. M/C
7. REVIEW 2003/04 AUDIT: Rhonda Mahlum/Mahlum & Goodhart pc. Ms Mahlum reported that the audit was done in accordance with the GASB 34 requirement and reviewed the audit with the Commissioners. Secretary Treasurer Jergenson noted that the fee for the audit had not been budgeted correctly and that the cost of the 2003/05 audit would be \$3250.00. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve and accept the audit and to pay the fee as presented. M/C
Commissioners were asked what procedure should be followed when during a trust account audit the auditors discover that the trust account is not interest bearing or that the interest is not being sent to RETA. It was decided that the Commission office would send a notice to RETA informing them of those not in compliance with RETA.
8. CORRESPONDENCE FROM JEFFREY WESTGOR REQUESTING WAIVER OF PRE-LICENSING EDUCATION AND EXAMINATION FOR ROBERT HANKEN.
Commissioners reviewed the request from Mr. Westgor on behalf of Robert Hanken. Commissioner Schlosser moved, seconded by Commissioner Youngberg to deny the reinstatement of Mr. Hanken's license, to waive the pre-licensing education requirement on the condition that Mr. Hanken is current with his continuing education, and to require Mr. Hanken to take the salesperson real estate exam. M/C
9. REVIEW PRELIMINARY BUDGET PROPOSAL FOR 2005/06. The proposed budget was reviewed in detail. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to approve the 2005/06 budget. M/C
10. LICENSE EDUCATION ADVISORY GROUP REPORT. Commissioners discussed the topics suggested by the advisory group for the 15 hours that will be required for new licensees prior to the issuance of their licenses beginning January 1, 2006 with the passage of HB1240. It was the consensus of the Commissioners to breakdown the 15 hour requirement as follows: 6 hours on contracts (writing purchase agreements, listing contracts, addendums, etc), 3 hours on agency, 3 hours on professional courtesy and ethical practice, and 3 hours on risk reduction. Staff will email this information to the advisory group members for their input. Any approved continuing education courses will be accepted for the 15 hours of education that will be required of new licensees with in the first year of licensure.
11. DISCUSS PROPOSED AMENDMENTS TO RULES. Commissioners will review the packet of information on proposed rule changes for discussion at a later meeting.

12. REVIEW APPLICATION FORM FOR INCORPORATING SALESPERSON. Legal counsel Dave Reich will review the proposed form for registering a salesperson's corporation and draft applicable rules. Rules need to be written to clarify the fee of \$200, that it is a one time fee, and what happens if a salesperson's real estate license is escrowed, revoked, cancelled, suspended, etc. (i.e.: corporation's registration becomes invalid and will need to be registered again)
13. NSF CHECK RECEIVED FOR APPLICATION FEE. Jamie Schmidt appeared before the commission regarding the check for his salesperson application fee which was returned NSF. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve licensure for Jamie Schmidt. M/C (4 ayes, 1 nay Commissioner Schlosser)
14. REVIEW REQUEST FOR LICENSE REINSTATEMENT FROM ROBERT PENFIELD. The broker licenses of Robert and Winona Penfield were cancelled March 1, 2005 for non-renewal. Commissioner Cymbaluk moved, seconded by Commissioner Louser that the license cancellations stand in accordance with NDCC43-23-13.1. M/C
15. REVIEW CORRESPONDENCE FROM VIRGINIA BENZ, PRAIRIE ROSE REALTY. Virginia Benz, broker/owner of Prairie Rose Realty, Inc. wrote a letter to the Commission expressing her concerns with the fact that the name of her company, Prairie Rose Realty, Inc. and that of Rose Realty, Inc. were deceptively similar. Commissioners noted that Prairie Rose Realty, Inc. is located in Steele, ND and Rose Realty, Inc. is located in Park River, ND and 70-02-01-13 speaks to deceptively similar names in the same community. No action was taken.
16. UPDATE ON DEVELOPMENT OF GUIDE FOR MAINTAINING FILES FOR BROKERS. Commissioners Schlosser and Youngberg provided a draft of the guide. They will have some brokers throughout the state review it and provide input. Adding a statement that this brochure is not law but a guide for good business practices will be added. Legal counsel will review prior to publication.
17. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Youngberg moved, seconded by Commissioner Louser to approve the requests for trust account waivers as attached to these minutes. M/C
18. FYI: ISSUES REGARDING MINIMUM SERVICES ACROSS THE UNITED STATES. Chair Sheridan asked Commissioner Youngberg to continue to watch this issue and provide information to the rest of the Commissioners to keep everyone current on what is happening with the minimum services issue.
19. REVIEW 2005 1ST QUARTER E&O REPORT. The 1st quarter report from RISC was provided to the Commissioners for informational purposes.
20. AMP ADVISORY BOARD REPORT. Secretary Treasurer Jergenson provided the Commissioners with a summary of the AMP Advisory Board meeting in particular information regarding simulated broker license examinations. It was noted that an RFP should be written soon as our contract with AMP expires June 30, 2006. Commissioner Schlosser requested information on the examination pass/fail ratios for the next meeting.
21. ARELLO MID-YEAR MEETING REPORT. Commissioners were provided a summary report of the ARELLO Mid-Year meeting events.
22. 2005 COMMISSION GOALS. The goals set by the Commission for 2005 were reviewed.

23. other business:

- a. Election of Officers for 2005/06. Commissioner Cymbaluk moved, seconded by Commissioner Louser to nominate Commissioner Youngberg as Chair and Commissioner Schlosser as Vice Chair of the Commission for 2005/06 effective July 1, 2005. M/C
- b. FYI: an RFP for an E&O provider needs to be sent.
- c. The Commission received an invitation from the Tennessee Real Estate Commission to attend the ARELLO District Meeting in Nashville in July 2005.
- d. A negative comment from a broker regarding the issuance of duplicate broker licenses was discussed. The issuance of duplicate licenses to a broker is permissible by law.

There being no further business, Chair Sheridan adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Secretary Treasurer