

November 17, 2010  
8:30am Central Time  
North Dakota Real Estate Commission  
1<sup>st</sup> Floor Conference Room  
200 E Main Ave  
Bismarck ND

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

1. CALL MEETING TO ORDER. Chair Jerry Youngberg called the meeting to order. Commissioners Sheridan and Louser joined the meeting by conference call.
2. APPROVE MINUTES OF AUGUST 25, 2010 MEETING. Commissioner Schlosser moved to approve the August 25, 2010 minutes as presented, seconded by Commissioner Cymbaluk. M/C
3. APPROVE AUGUST, SEPTEMBER AND OCTOBER 2010 FINANCIAL REPORTS. Executive Director Jergenson informed the Commissioners that there were no financial reports as the database for the accounting had become corrupted and was in the process of being repaired by Intuit. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to have staff email the financial reports with a request for the Commissioners to respond back to the Executive Director with any questions and/or their approval. M/C
4. PRESENTATION OF ANNUAL AUDIT: RHONDA MAHLUM, MAHLUM & GOODHART PC. Rhonda Mahlum of Mahlum & Goodhart PC presented the annual audit of the Commission's financials for fiscal year 2009/10. Ms Mahlum reported that the audit received a clean opinion which is the highest rating under government standards. The report did note that the Commission has not set a policy limiting deposits with any one depositor. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the 2009/10 fiscal year audit report as presented. M/C It was pointed out that staff should make more effort to take advantage of the education opportunities that are allocated in the budget. Executive Director Jergenson was congratulated for keeping expenses down.
5. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
  - a. Complaint #2010-08 Julie L Klein v Orland P Polasky. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Louser to dismiss this complaint. M/C

- b. Complaint #2010-09 Mike Probst v Orville G Nesdahl. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to dismiss this complaint. M/C
  - c. Early Stipulated Settlement proposed procedure and forms. Special Assistant Attorney General Connie Hofland discussed the documents and steps in streamlining the process for early stipulated agreements while insuring that the respondent received due process.
    - Documents to be used when the issue arises from a trust account audit were discussed. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve these documents as revised. M/C
    - Documents to be used when the issue arises from a continuing education audit were discussed. The following process was established: 30 days after staff notifies a licensee and that licensee's broker via certified letter regarding an issue with that licensee's ce, if the licensee has not responded the early stipulated settlement procedure begins. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve this process with the licensee with changes to the documents as recommended. M/C Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve the same process with the broker. M/C
    - Commissioner Sheridan moved, seconded by Commissioner Louser to begin using the early stipulated settlement procedure with the continuing education audit alleged violation against Andrew Hardy with a stipulated fine of \$500. M/C
    - Commissioners complimented Special Assistant Attorney General Connie Hofland and Executive Director Jergenson on their work in putting this process together.
  - d. Facilitator options. Ms Hofland presented her memo regarding the current status and options of facilitators in North Dakota in which she states that there are some agency requirements for a facilitator. It was stated that if you are a facilitator you are not an agent for the client. It was the consensus that ND statutes regarding agency need to be updated and that they continue to be a work in progress. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to work on overhauling agency statutes including the definition and responsibilities of a facilitator. M/C
6. 2011 MANDATORY CONTINUING EDUCATION COURSE TOPIC. Executive Director Jergenson provided Commissioners with information regarding 5 possible topics for mandatory continuing education and the number of currently approved courses available both online and classroom for each topic. Commissioner Sheridan moved, seconded by Commissioner Schlosser to require 3 hours of continuing education in the course topic of business etiquette and professionalism. M/C
  7. REVIEW LICENSE APPLICATIONS.
    - a. Commissioners reviewed the application of Kim M. Korynta for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk

- to deny Ms. Korynta's application due to items on her credit report that are in collection and the IRS. M/C
- b. Commissioners reviewed the application of Derek M. Larson for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Mr. Larson to sit for the salesperson real estate license examination. M/C
  - c. Commissioners reviewed the application of Matthew T. Lundeen for a salesperson license. Mr. Lundeen appeared in person to address the criminal mischief charge on his application stating that the case is still pending and is set for a hearing in December 2010. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Lundeen to sit for the salesperson real estate license examination when he provides documentation that the charges against him have been dropped or dismissed, if that does not occur his application will be tabled and reviewed again by the Commission. M/C
  - d. Commissioners reviewed the application of Charles R. Sund for a salesperson license. Commissioner Louser moved, seconded by Commissioner Cymbaluk to approve Mr. Sund to sit for the salesperson real estate license examination. M/C
  - e. Commissioners reviewed the application of Fatima Trigui Tano for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Ms. Tano to sit for the salesperson real estate license examination. M/C
8. REVIEW INFORMATION SUBMITTED BY WILLIAM J WIEMANN IN SUPPORT OF HIS NON-RESIDENT SALESPERSON LICENSE APPLICATION. Mr. Wiemann submitted his fingerprints for a FBI background check and letters of reference. Mr. Wiemann's FBI background check results were clear. Commissioner Cymbaluk moved, seconded by Commissioner Louser to approve Mr. Wiemann to sit for the state portion of the real estate examination in order to receive his non-resident salesperson license. M/C
  9. CRITERIA FOR STAFF TO USE IN THE REVIEW AND APPROVAL OF APPLICATIONS REQUIRING CREDIT REPORTS AND CRIMINAL BACKGROUND CHECKS. Commissioners discussed some basic criteria and asked staff to prepare a description of the process which will then be reviewed by the Commission.
  10. DISCUSS RFP FOR ERRORS AND OMISSIONS INSURANCE PROVIDER. Commissioners discussed the possible need to conduct a RFP for errors and omissions insurance providers more often than every 4 years. It was the consensus to continue as is.
  11. ARELLO ANNUAL CONFERENCE REPORTS: COMMISSIONERS CYMBALUK & YOUNGBERG, EXECUTIVE DIRECTOR JERGENSEN. Commissioners Youngberg and Cymbaluk provided written reports for review. Executive Director Jergenson will email her report to the Commissioners.
  12. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve the requests for trust account waivers as attached to these minutes. M/C

13. COMMISSION GOALS. Commissioners asked that revision of agency statutes be added to the list of goals.
14. OTHER BUSINESS:
  - a. Commissioners discussed an email received from Senator Judy Lee asking for the legislative intent behind the statute not allowing inactive licensees to receive referral fees. Commissioners asked staff to contact Senator Lee to see if she can research the legislative intent and to inform her that we will keep her inquiry on the agenda for more research.
  - b. Staff received a couple of inquiries regarding the National Association of REALTORS® change to the REALTOR® Code of Ethics regarding internet advertising. It was noted that this is addressed in our Advertising Q & A.
  - c. Staff noted that Jim Deibert is retiring and will not be teaching the pre-licensing course after December 2010. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk that Chair Youngberg write a letter of recognition and thanks to Mr. Deibert on behalf of the Commission. M/C Theresa Halvorson has been approved to teach pre-licensing in a classroom setting.
  - d. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser that no action needs to be taken in regards to Kimberly Clark's request. M/C
  - e. Commissioner Sheridan noted that she appreciates the opportunity to meet via conference call during the winter months.
  - f. Commissioners were asked to email dates they will not be available to meet in January or February to Executive Director Jergenson so a meeting date can be scheduled.

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

Respectfully submitted,

Patricia M. Jergenson  
Executive Director