

North Dakota Real Estate Commission
November 20, 2003
Pearce & Durick Law Office
Conference Room
9:00 AM Central Time

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

1. Chair Roger Cymbaluk called the meeting to order.
2. APPROVE MINUTES OF PREVIOUS MEETING. Commissioner Youngberg moved, seconded by Commissioner Louser to approve the minutes of the previous meeting as written. M/C
3. APPROVE FINANCIAL REPORTS FOR SEPTEMBER AND OCTOBER 2003. Commissioner Cymbaluk asked for clarification on the Recovery Fund figures. Commissioner Sheridan moved to approve the September and October 2003 financial reports and the compilation for 2002/03. M/C
4. FINAL APPROVAL OF AMENDMENTS TO THE RULES AND REGULATIONS. Secretary Treasurer Patricia M. Jergenson informed the Commission that no oral or written comments have been received regarding the proposed amendments to the Rules and Regulations since the hearing held on September 24, 2003. Commissioner Schlosser moved, seconded by Commissioner Youngberg to give final approval to the proposed Rules and Regulations changes contingent upon the approval of the Attorney General. M/C
5. REVIEW APPLICATIONS FOR SALESPERSON LICENSE.
 - * Commissioners reviewed the application for a salesperson license from Robert N. Lee. Commissioner Sheridan abstained from the discussion and vote. Commissioner Youngberg moved, seconded by Commissioner Louser to table the decision on Mr. Lee until additional information has been made available for the Commissioners to review. M/C
 - * Commissioners reviewed the application for a salesperson license from Mary J. Splonskowski. Commissioner Youngberg moved, seconded by Commissioner Schlosser to approve the application of Ms. Splonskowski subject to the report from the Bureau of Criminal Investigation. M/C
 - * Commissioners reviewed the application for a salesperson license from Ruth M. Stewart. Commissioner Sheridan moved, seconded by Commissioner Louser to deny Ms Stewart's application to sit for the examination at this time but that she may reapply after she is off probation. M/C

- * Commissioners reviewed the application for a salesperson license from Robert J. Twedt. Commissioner Youngberg moved, seconded by Commissioner Schlosser to approve Mr. Twedt's application subject to a positive report on his insurance license. M/C
6. REVIEW OF FORMAL COMPLAINTS PENDING BEFORE THE ND REAL ESTATE COMMISSION. David Reich/Legal counsel provided Commissioners with copies of reports on case numbers: 2003-05, 2003-06, and 2003-07. Commissioners will review the reports and discuss at their next meeting. Case #2003-04 and 2002-10 were discussed. Commissioner Sheridan moved to dismiss the complaint against John Sauter and forward the complaint against Michael Puklich to a hearing. Motion died for lack of a second. Commissioner Schlosser moved, seconded by Commissioner Louser to move forward with a hearing on Case#2003-04. M/C Commissioner Sheridan moved, seconded by Commissioner Youngberg to set a hearing on case#2002-10. M/C David Reich stated that case#2002-05 is still tabled due to the fact that the issue is pending civil litigation.
 7. REPORT ON INVESTIGATION OF GRAND FORKS HERALD MARKETING PLAN. David Reich reported on his investigation of the marketing plan the Grand Forks Herald is conducting in regards to home selling. Commissioner Sheridan moved, seconded by Commissioner Schlosser to authorize Mr. Reich to pursue avenues necessary to see that the Grand Forks Herald is not conducting the sale of real estate without a license. M/C
 8. REVIEW CORRESPONDENCE REGARDING JEFFREY GAST. Mr. Reich received a letter from Christopher Kennelly, attorney for Mr. Gast, requesting that the file on Mr. Gast be sealed as he has received a pardon from the state of South Dakota. Mr. Reich reported that he did not see any statutory authority under state law that would allow the Commission to seal the record. Commissioner Sheridan moved, seconded by Commissioner Youngberg to authorize Mr. Reich to follow through with the process required to seal the record of Mr. Gast with the stipulation that if Mr. Gast were to reapply for a real estate license in North Dakota the Commission will have the right to reopen his file. M/C
 9. APPEARANCE OF JODY KUNTZ REGARDING APPROVAL OF APPLICATION FOR SALESPERSON LICENSE. Ms. Kuntz's application had been previously denied for failure to report a NSF Charge and a misdemeanor charge on her application, which was discovered on a report from the Bureau of Criminal Investigation. Ms Kuntz spoke on her own behalf stating that she did not disclose the NSF check charge because it was filed as an infraction and she thought it did not need to be reported. The misdemeanor charges were dismissed and were supposed to be sealed by court order. Commissioner Sheridan moved, seconded by Commissioner Louser to table the decision on Ms. Kuntz's application pending a credit report to be provided to the Commission by Ms. Kuntz. M/C
 10. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS.
* Commissioners reviewed a request for a trust account waiver from Jack D. Stebbins. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the trust account waiver for Jack D. Stebbins. M/C
* Commissioners reviewed a request for a trust account waiver from Tate A. Cymbaluk. Commissioner Cymbaluk removed himself from discussion and voting. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the trust account waiver for Tate A. Cymbaluk. M/C
 11. REVIEW EMAIL REGARDING COMMERCIAL REAL ESTATE. Commissioners reviewed an email regarding possible statute changes for commercial real estate. It was the suggestion of the Commissioners that this individual take this item to the North Dakota Association of REALTORS® for discussion.
 12. DISCUSS GOALS FOR THE COMMISSION. Commissioners discussed what the focus of the commission should be for 2004. Staff will retype the goals for review at the next meeting.
 13. AMP ADVISORY BOARD MEETING REPORT. Secretary Treasurer Pat Jergenson reported that the meeting with the AMP Advisory Board was very informative and covered items such as simulation examinations, certification of exam proctors, and services provided by AMP.

14. ARELLO CONFERENCE REPORT. Commissioner Schlosser shared some highlights from the ARELLO Conference recently attended by himself, Commissioner Cymbaluk, and Secretary Treasurer Jergenson. Issues discussed among the jurisdictions were: errors and omissions insurance, suspension of licenses due to nonpayment of taxes and child support, limited service brokers and protection for the consumer, Virtual Office Websites, and mold. Commissioner Cymbaluk added that the 2004 Central District conference would be held in Bismarck in July 2004.
15. Commissioners reviewed information from the National Association of REALTORS® regarding the National Do Not Call Registry.
16. As discussed at an earlier meeting Commissioners looked at courses provided by the Council of Real Estate Brokerage Managers to see if any could be approved for use towards the education requirement for a broker license. It was noted that none of the courses available through distance learning have been approved by ARELLO and therefore could not be approved. Individual classroom courses will be dealt with on a case-by-case basis.
17. Other business:
 - a. Commissioners discussed the timeline for the hiring of an auditor. Mary Splichal addressed the Commission on behalf of NDAR stating that the association felt that the Commission should hire a part-time auditor rather than a full time auditor due to cost issues.
 - b. A thank you note from Larry Lyngstad was shared with the Commissioners.
 - c. Commissioners directed David Reich, legal counsel and Secretary Treasurer Jergenson to research the legality of filing documents electronically.
 - d. Questions have been asked of staff regarding what the process is to release funds that have been left in a trust account for a long period of time and the broker is unable to locate the party(ies) involved. These funds should be turned over to the Unclaimed Property division and information on this process will be published in the next newsletter.
 - e. Commissioners reviewed a request by Terry Longtin to waive the requirement of having two years experience as a licensed real estate salesperson prior to making application for a broker's license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Longtin's request to waive the two-year requirement upon completion of the required education. M/C
 - f. Staff noted that the office is in need of a new fax machine. The cost of a multi function fax/printer/copier/scanner is being researched.
 - g. Chair Cymbaluk reviewed several questions that are commonly asked of the staff and will be addressed in the newsletter.

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

Respectfully submitted,

Patricia M. Jergenson
Secretary Treasurer