

November 23, 2004
Mezzanine
Holiday Inn Fargo
Fargo, ND
9:00 AM Central Time

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 SEPTEMBER 15, 2004 AND OCTOBER 21, 2004 MEETINGS. Commissioner Youngberg moved, seconded by Commissioner Louser to approve the September 15, 2004 minutes. M/C
Commissioner Youngberg moved, seconded by Commissioner Schlosser to approve the October 21, 2004 minutes. M/C
3. APPROVE FINANCIAL REPORT FOR OCTOBER 2004. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve the financial report for October 2004. M/C
4. TRUST ACCOUNT AUDIT UPDATE. Rhonda Mahlum of Mahlum & Goodhart pc provided the Commissioners with a report of their findings while conducting trust account audits. Commissioners Schlosser and Youngberg volunteered to work on establishing a brochure to provide guidelines to brokers. Commissioners asked that the auditors identify trust account problems and bring them to the Commission for discussion.
5. REVIEW OF FORMAL COMPLAINTS PENDING BEFORE THE NORTH DAKOTA REAL ESTATE COMMISSION.
Complaint# 2004-02 Rodney Friesz v. Robert Tubbs. Commissioners reviewed the formal complaint filed by Rodney Friesz alleging that Robert Tubbs attempted to take advantage of an elderly seller by misrepresenting that the inspection report indicated problems with the water heater and attempting to get the seller to replace the water heater. Mr. Reich recommended dismissal of the complaint, as it appears that there is not sufficient evidence of a violation of any of the applicable statutes and regulations to proceed to hearing on this matter. Commissioner Schlosser moved, seconded by Commissioner Louser to dismiss the complaint. M/C
Complaint# 2004-03 Theresa Semmens v. Carol Simenson. Commissioners reviewed the formal complaint filed by Theresa Semmens alleging that Carol Simenson failed to properly represent her in the sale of a duplex and that Ms Simenson acted in an unprofessional and unethical manner. Mr. Reich

recommended dismissal of the complaint, as it appears that there is not sufficient evidence of a violation of any of the applicable statutes and regulations to proceed to hearing on this matter. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to follow the recommendation of Mr. Reich and dismiss the complaint. M/C Complaint# 2004-04 Connie Walch v. Darryl Papka. Commissioners reviewed the formal complaint filed by Connie Walch alleging that Darryl Papka misrepresented the condition of a house by failing to disclose a defective roof condition. Mr. Reich recommended dismissal of the complaint, as it appears that there is not sufficient evidence of a violation of any of the applicable statutes and regulations to proceed to hearing on this matter. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to follow the recommendation of Mr. Reich and dismiss the complaint. M/C Complaint# 2004-05 Dennis Roehrich v. Shane Bowman. Commissioners reviewed the formal complaint filed by Dennis Roehrich alleging that Shane Bowman improperly listed for sale property in which Mr. Roehrich had an ownership interest without his knowledge or permission. Mr. Reich recommended dismissal of the complaint, as it appears that there is not sufficient evidence of a violation of any of the applicable statutes and regulations to proceed to hearing on this matter. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to dismiss the complaint. M/C Complaint# 2004-06 Donald Sabo v. Tana Becker. Commissioners reviewed the formal complaint filed by Donald Sabo alleging that Tana Becker violated certain statutes and regulations in the manner in which she represented him as a buyer and in the handling of an earnest money deposit in the failed purchase of a home. Mr. Reich recommended that this complaint be set for a hearing. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to set a hearing on this matter. M/C Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to suspend approval of Ms Becker to take the broker exam pending the outcome of the hearing. M/C Mr. Reich will notify Ms Becker that her approval to take the broker exam has been suspended pending the hearing.

6. REPORT FROM LEGAL COUNSEL DAVID REICH ON ITEMS PENDING FROM PREVIOUS MEETING. Mr. Reich reported the following items:
 - a. “unofficially “ there is not an ongoing investigation of Tana Becker
 - b. There are not any specific regulations or statutes that require a broker to be on site
 - c. Regarding the auditor’s authorization to request documents – the auditor should bring the situation to the Commission for them to act on it
 - d. Information regarding filing a complaint against Main & Company Realtors due to the fraud charges that where filed against them in court will be provided at the next Commission meeting
7. NDAR LEGISLATIVE ISSUES. NDAR EVP Claus Lembke discussed legislative issues his association is proposing some of which are: to increase pre-licensing to 45 and adding post-licensing requirement of 15 hrs within the 1st year of licensure (avenues of delivery and topics for the additional education requirements was also discussed), incorporating for salesperson, meth disclosure, statute of limitation for real estate licensees to be 2 years, and sales price disclosure.

8. REVIEW APPLICATIONS FOR SALESPERSON LICENSE.

Carryover from October 21, 2004 meeting:

- a. Commissioners reviewed correspondence from Terry K. Murphy indicating that he has recently filed bankruptcy and that it has yet to be discharged. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to deny Mr. Murphy's application due to the fact that he is currently in the process of filing bankruptcy. M/C
- b. The Commission did not receive a response from Stacy R. Smith. No action taken.
- c. Commissioners reviewed correspondence from Tom Slorby in explanation of items under review on the application of Maureen S. Slorby. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Maureen Slorby to sit for the real estate exam. M/C

New applications:

- a. Commissioners reviewed the application for a salesperson license from Jeremy J. Boyce. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Jeremy Boyce to sit for the real estate exam. M/C
 - b. Commissioners reviewed the application for a salesperson license from Bethany J. Carroll. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Bethany Carroll to sit for the real estate exam. M/C
 - c. Commissioners reviewed the application for a salesperson license from Amie J. Cooper. Commissioner Louser moved, seconded by Commissioner Youngberg to approve Amie Cooper to sit for the real estate exam. M/C
 - d. Commissioners reviewed the application for a salesperson license from Melissa L. Knuttile. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Melissa Knuttile to sit for the real estate exam. M/C
 - e. Commissioners reviewed the application for a salesperson license from Drew A. Likness. Commissioner Cymbaluk moved, seconded by Commissioner Louser to request a current credit report from Mr. Likness. M/C
 - f. Commissioners reviewed the application for a salesperson license and credit report from Corey D. Nesemeier. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to deny the application of Corey Nesemeier citing NDCC 43-23-08. M/C
9. REVIEW REQUEST FOR WAIVER FOR BROKER APPLICATION FROM MICHEAL L. WEISS. Mr. Weiss requested to be licensed as an associate broker and in doing so waiving the North Dakota requirements for a broker exam because he is currently licensed in Idaho. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to have Mr. Weiss sit for the exam pending the education information he provides. M/C
10. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the requests for trust account waivers as attached to these minutes. M/C
11. REVIEW APPLICATION FOR SUBDIVIDED LAND REGISTRATION FROM ORANGE LAKE COUNTRY CLUB, INC. The application submitted by Orange Lake Country Club, Inc. to register Orange Lake Country Club Villas III was reviewed. Commissioner Schlosser moved,

- seconded by Commissioner Youngberg to approve the registration of Orange Lake Country Club Villas III subject to receipt of a \$25,000 indemnity bond. M/C
12. DISCUSS APPROVAL OF COMPANY NAME THAT IS SIMILAR TO ANOTHER FIRM IN THE STATE. Rule 70-02-01-13 Prevention of same or deceptively similar real estate firm names states in part that a real estate firm may be prevented from using the same name or a name deceptively similar to that of a real estate firm in the same community. The firm names in question are in different parts of the state.
 13. GUIDELINES FOR UNLICENSED ASSISTANTS REGARDING EMAILS, ETC. Staff provided information from various states stating that emails were considered a form of communication and therefore if the assistant cannot communicate information on listings, etc, they can not convey that information in writing or emails.
 14. LICENSE RENEWAL PROCESS FOR LICENSEES SERVING IN THE MILITARY. Commissioner Cymbaluk moved, seconded by Commissioner Louser to waive late fees that may be assessed by a licensee serving in the military and unable to get their license renewal returned by December 31, 2004. M/C
 15. UPDATE OF STATUS OF COMPUTER PURCHASE AND LICENSING SOFTWARE. Staff reported that computer costs had been compared and the new computers had been purchased through the NDAC Resources Group. Work on the licensing software has also started.
 16. ADMINISTRATIVE ASSISTANT POSITION. Jane Willows has announced her retirement effective December 31, 2004. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to pay Ms Willows for 240 hours of vacation. M/C The salary package to be offered to the new administrative assistant was discussed.
 17. ARELLO ANNUAL CONFERENCE REPORT. A written report was provided in the Commission meeting packets for informational purposes.
 18. DISCUSS 2005 COMMISSION GOALS. Chair Sheridan asked Commissioners to give consideration to 2005 goals.

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

Respectfully submitted,

Patricia M. Jergenson
Secretary Treasurer