

November 7, 2007
8:20 AM
North Dakota Real Estate Commission
State Capitol Building
Fort Union Room
600 East Boulevard Ave
Bismarck ND 58505

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.
2. APPROVE MINUTES OF AUGUST 16, SEPTEMBER 25 AND OCTOBER 24, 2007 MEETINGS. Commissioner Youngberg moved, seconded by Commissioner Sheridan to approve the minutes from August 16, September 25 and October 24, 2007 meetings. M/C
3. APPROVE FINANCIAL REPORTS FOR AUGUST AND SEPTEMBER 2007. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the financial reports for August and September 2007 as presented. M/C
4. REVIEW 2006/07 NDREC AUDIT:MAHLUM & GOODHART PC. Rhonda Mahlum of Mahlum & Goodhart presented the 2006/07 audit of the ND Real Estate Commission. Ms. Mahlum noted that the financial records were in compliance and received the highest rating under Government Auditing Standards. Commissioner Sheridan moved, seconded by Commissioner Youngberg to accept the audit as presented. M/C
5. UPDATE ON TRUST ACCOUNT AUDITS: MAHLUM & GOODHART PC. Ms. Mahlum shared the following findings from the trust account audits her firm has been conducting on behalf of the Commission:
 - a. There is confusion on the part of smaller brokers when they are asked the initial interview questions about the use of their trust accounts – they are stating that they aren't using their trust accounts so they don't need an audit when in fact they actually do.
 - b. Some brokers are not balancing the individual ledger sheets.
 - c. Agency policies are incomplete.
 - d. Interest on trust accounts is minimal – the auditors will do some research on how this could be handled.
 - e. Confusion on agency is a big problem – in particular appointed agency.

- f. Auditors are now auditing for compliance – the first time it was more to help educate.
 - g. Brokers seem appreciative.
 - h. Auditors will come to the Commission with a proposal to conduct continuing education audits at the same time they are doing trust account audits.
6. DISCUSSION ON APPOINTED AGENCY. Executive Director Jergenson noted that in addition to the mention of confusion regarding appointed agency in the auditor's report the Commission office has received several calls from licensees looking for direction as well. A task force was set up with the following members: Kris Sheridan, Connie Hofland, Pat Jergenson, Jill Beck, Casey Chapman, Rhonda Mahlum, Scott Louser and Randy Schwartz.
7. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
- a. Complaint # 2007-06 M/M Long v. Kathy Feist. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to set this complaint for a hearing. M/C (1 nay Commissioner Youngberg)
 - b. Complaint # 2007-08 NDREC v. Jodi DePlazes. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Schlosser to dismiss this complaint. Motion failed. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to set this complaint for a hearing. M/C
 - c. Complaint # 2007-10 Tanya Renden v. Lore Bruner-Schneider. Commissioner Schlosser recused himself from the discussion and vote on this item. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Sheridan moved, seconded by Commissioner Youngberg to dismiss this complaint. M/C
 - d. Complaint # 2007-11 Charles Rudolph v Neal Messer. 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
 - e. Ms. Hofland informed Commissioners that complaint #'s 2006-02, 2006-15, and 2007-02 are all still in civil litigation.
 - f. Discussion of NAR article "Salesperson Cannot Represent Competing Purchasers." Ms. Hofland asked to have this item placed on the next Commission agenda.
 - g. Mobile home sales service paying referral fees. Ms. Hofland stated that a mobile home is personal property and not real estate therefore there is not a violation in receiving referral fees from the mobile home sales service.
 - h. Unpaid fines. Both Kathryn Grady-Thurston and Tana M. Becker have outstanding fines that were assessed to them in 2005 and 2004 respectively.

Ms Hofland will research options available to the Commission in collecting unpaid fines.

Chair Louser recessed the meeting at 9:25 AM and the Commission moved into the Hearing for Complaint # 2007-04 NDREC v. Richard Ward.

Chair Louser called the meeting back to order at 12:45 PM.

8. DISCUSS POSSIBLE TALKING POINTS WITH THE PSC REGARDING AUCTIONEERS. Executive Director Jergenson gave the Commissioners examples of gray areas in dealing with real estate licensees who also have auctioneer licenses as well as numerous times the PSC has referred a consumer to the Real Estate Commission office because the situation involves the auction of land even when the auctioneer does not have a real estate license. Consensus was to have Ms Jergenson meet with staff from the PSC office to discuss these gray areas and clarify what events fall under which agency's jurisdiction.
9. DISCUSS MANDATORY CONTINUING EDUCATION FOR 2008/09 CE CYCLE. Commissioner Youngberg moved, seconded by Commissioner Schlosser to establish that 6 hours of mandatory education be taken in the topics of agency and/or contract law. M/C Consensus of the Commissioners was to ask course providers to revamp the old agency and contract law courses prior to submitting them for the 2008/09 ce cycle.
10. BROKERS NON-COMPLIANT WITH TRUST ACCOUNT AUDIT REQUEST. Executive Director Jergenson informed the Commissioners of 3 brokers who have either not responded at all to inquiries having to do with auditing their trust account or have not complied with requests for a policy on agency. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to notify Linda Klebe, Curtis Aaberg, and Fred Skoda by certified mail that unless they are in compliance with the trust account audit requests their real estate licenses will not be renewed. M/C
11. REVIEW TABLED LICENSE APPLICATION OF JOANNA PLADSON. Ms. Pladson provided information that she is on supervised probation for the DWI offense on her salesperson license application. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to have staff research DWI in MN v. DUI in ND and if they are the same Ms. Pladson will be allowed to sit for the real estate exam. M/C
12. UPDATE ON NEW LICENSEES WHO HAVE NOT COMPLETED THE 15 HOURS OF POST LICENSING INFORMATION. A list of 2006 licensees from June 2006 to December 2006 who either have or need to fulfill the 15 post licensing education was provided to the Commissioners.
13. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the requests for trust account waivers as attached to these minutes. M/C

14. REVIEW THIRD QUARTER E&O INSURANCE CLAIMS REPORT FROM RISC.
RISC provided the Commission with the 2007 3rd quarter report on E&O insurance claims.
15. ARELLO UPDATES. Commissioners Cymbaluk and Youngberg gave verbal reports of events from the ARELLO Midyear Meeting. Executive Director Jergenson filed a written report.
16. AMP ADVISORY BOARD UPDATE. Executive Director Jergenson filed a written report and highlighted some of the events at the Advisory Board meeting.
17. COMMISSION GOALS. Commissioners revised the goals they have set for the Commission. Discussion on how these goals will be reached will be held at a later date.
18. OTHER BUSINESS:
 - a. Executive Director Jergenson informed the Commissioners of the quality of the Rookie Course and congratulated NDAR for seeing a need and filling it.

Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to adjourn. M/C

Respectfully submitted,

Patricia M. Jergenson
Executive Director