

October 10, 2013
8:00 am
North Dakota Real Estate Commission
State Capitol
Peace Garden Room
600 E Boulevard Ave
Bismarck ND

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

1. CALL MEETING TO ORDER. Chair Cymbaluk called the meeting to order. Commissioners Cymbaluk, Sheridan, Louser, and Schlosser were present. Commissioner Youngberg was absent. Guests were introduced.
2. APPROVE MINUTES OF JUNE 19, 2013 AND AUGUST 7, 2013 MEETINGS. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the minutes of the June 19, 2013 and August 7, 2013 meetings. M/C
3. FINANCIAL REPORT. Executive Director Jergenson stated the corrected financial report for June 2013 as discussed at the August 7, 2013 meeting was in the Commissioners packets. Jergenson then presented the financial reports for July and August 2013. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the financial reports for July and August 2013. M/C
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND.
 - a. Consideration of Stipulated and Settlement Agreements.
 - Complaint #2013-13 NDREC v Kenneth Bulie. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Kenneth Bulie in which Mr. Bulie agrees to pay a fine of \$300 and \$300 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C Commissioners requested staff to gather information from other states on fine amounts assessed by violation and to provide the information to the Commission for review/discussion.
 - Complaint #2013-14 NDREC v Theresa Halvorson. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Theresa Halvorson in which Ms. Halvorson agrees to pay a fine of \$250 and \$170 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Sheridan moved, seconded by Commissioner Schlosser to propose a \$250 fine, \$170 in legal/investigative costs and a letter

of reprimand strongly stating the concerns of the Commission since Ms. Halvorson teaches pre-licensing education and should know the law. M/C The letter of reprimand is to be reviewed by the Commission prior to being sent to Ms. Halvorson.

- Complaint #2013-14 NDREC v Barry Halvorson. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Barry Halvorson in which Mr. Halvorson agrees to pay a fine of \$250 and \$170 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Schlosser moved, seconded by Commissioner Louser to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
 - Complaint #2013-14 NDREC v Anne Kallhoff. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Anne Kallhoff in which Ms. Kallhoff agrees to pay a fine of \$250 and \$170 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Schlosser moved, seconded by Commissioner Louser to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
 - Complaint #2013-14 NDREC v Betsy Denis. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Betsy Denis in which Ms. Denis agrees to pay a fine of \$250 and \$170 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Schlosser moved, seconded by Commissioner Louser to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
- b. Complaint #2013-15 Robert W. Jansen v Edward R. Gallegos: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Louser to dismiss the complaint filed against Mr. Gallegos. M/C It was noted that the letter sent to respondents notifying them of the complaint filed against them needs to be revised to include verbiage stating that failure by the respondent to answer the complaint within twenty (20) days from receipt of the complaint will result in the complaint being admitted without a response and the Commission may enter an order against the respondent in default.
- c. Complaint #2013-16 Joseph Linegar v DelRae M. Zimmerman: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Louser to dismiss the complaint filed against Ms. Zimmerman. M/C
- d. Ms. Hofland informed the Commission that Complaint #2013-01 Anthony G. Boeren v Michael H. Blazek is still in litigation and that she had just received the requested files for Complaint #2013-03 Jeff Stewart v Dennis G. Nelson.
5. REVIEW TABLED LICENSE APPLICATIONS ONE YEAR OR OLDER.
- a. Executive Director Jergenson stated that Dawn M. Poitra's North Dakota real estate salesperson license had been tabled October 12, 2012 and Ms. Poitra has not provided the information as requested at that time.
 - b. Executive Director Jergenson stated that Kalee B. Sherlock's North Dakota real estate salesperson license had been tabled June 28, 2012 and Ms. Sherlock has not provided the information as requested at that time.
 - c. Executive Director Jergenson stated that Scott D. Stockert's North Dakota real estate salesperson license had been tabled August 23, 2012 and Mr. Stockert has not provided the information as requested at that time.

- d. Executive Director Jergenson stated that Elsa G. Thomas' North Dakota real estate salesperson license had been tabled February 29, 2012 and Ms. Thomas has not provided the information as requested at that time.

Commissioner Schlosser moved, seconded by Commissioner Sheridan to send a letter to each of these 4 applicants notifying them that they have 30 days from the date of the letter to provide the requested documentation for their applications or the application will be cancelled. M/C It was noted that in future motions to table a licensee's application the motion should include that the applicant has 12 months to submit the requested documentation.

6. REVIEW LICENSE APPLICATIONS.

- a. Commissioners reviewed the application of Jeff M. Ashby for a non-resident broker license. Mr. Ashby joined the meeting by conference call to discuss disciplinary action taken against him by the Texas Real Estate Commission and items on his credit report. Commissioner Sheridan moved, seconded by Commissioner Schlosser to deny the application of Mr. Ashby. M/C Mr. Ashby became belligerent and Special Assistant Attorney General Constance Hofland had to inform Mr. Ashby that his time before the Commission was over and he would have an opportunity to appeal the denial.
- b. Commissioners reviewed the application of Tyler J. Bachmeier for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Louser to deny the application of Mr. Bachmeier due to items on his credit report. M/C
- c. Commissioners reviewed the application of Tamara K. Cannon for a salesperson license. Ms. Cannon appeared before the Commission to answer any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Ms. Cannon to sit for the salesperson license examination. M/C
- d. Commissioners reviewed the application of Kari A. Donner for a salesperson license. Ms. Donner joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Ms. Donner to sit for the salesperson license examination. M/C
- e. Commissioners reviewed the application of Mary A. Graham for a salesperson license. Ms. Graham joined the meeting by conference call to discuss any questions the Commissioners may have. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Ms. Graham to sit for the salesperson license examination pending receipt by staff of a clear background check. M/C
- f. Commissioners reviewed the application of Scott R. Grebner for a non-resident broker license. Mr. Grebner joined the meeting in person to discuss any questions the Commissioners may have. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Mr. Grebner to sit for the non-resident license examination. M/C
- g. Commissioners reviewed the application of Anthony M. Hendrickson for a salesperson license. Mr. Hendrickson joined the meeting via conference call to answer any questions the Commissioners may have. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Mr. Hendrickson to sit for the salesperson license examination. M/C
- h. Commissioners reviewed the application of Cameron J. Holt for a non-resident broker associate license. Mr. Holt joined the meeting via conference call to answer any questions the Commissioners may have. Mr. Holt apologized for not stating that he had a misdemeanor on his application saying that he did not know he should have included that on his application. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Mr. Holt to sit for the non-resident license examination. M/C
- i. Commissioners reviewed the application of Christine D. Lawson for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Ms. Lawson to sit for the salesperson license examination. M/C

- j. Commissioners reviewed the application of Karolyn A. Leno for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Louser to deny the application of Ms. Leno due to her credit report showing that she is in arrears with child support. M/C
- k. Commissioners reviewed the application of Jacob L. Lindbo for a salesperson license. Commissioner Louser moved, seconded by Commissioner Schlosser to deny the application of Mr. Lindbo due to the fact that he is still on probation. M/C
- l. Commissioners reviewed the application of Emily S. McMahan for a salesperson license. Commissioner Sheridan recused herself from discussion and voting on Ms. McMahan's application. Ms. McMahan joined the meeting via conference call to answer any questions the Commissioners may have. Commissioner Schlosser moved, seconded by Commissioner Louser to approve Ms. McMahan to sit for the salesperson license examination. M/C
- m. Commissioners reviewed the application of Benjamin L. Meier for a non-resident salesperson license. Mr. Meier joined the meeting via conference call to answer any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Mr. Meier to sit for the non-resident license examination. M/C
- n. Commissioners reviewed the application of Mark W. Mills for a salesperson license. Mr. Mills appeared before the Commission to answer any questions the Commissioners may have. Commissioner Louser moved, seconded by Commissioner Schlosser to approve Mr. Mills to sit for the salesperson license examination. M/C
- o. Commissioners reviewed the application of Michael L. Mueller for a salesperson license. Mr. Mueller appeared before the Commission to answer any questions the Commissioners may have and to explain items on his background check and credit report. Joe Hillerson was also present and spoke on Mr. Mueller's behalf. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Mr. Mueller to sit for the salesperson license examination. M/C
- p. Commissioners reviewed the application of Nicholas A. Strom for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Mr. Strom to sit for the salesperson license examination. M/C
- q. Commissioners reviewed the application of Karla A. Webb for a non-resident broker license. Ms. Webb joined the meeting via conference call to explain the issues on her credit report and the federal tax lien. Mr. Kevin Webb also joined the meeting to discuss the federal tax lien. Commissioner Sheridan moved, seconded by Commissioner Louser to deny the application of Ms. Webb due to the federal tax lien. M/C
- r. Commissioners reviewed the application of Brett A. Winkels for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Mr. Winkels to sit for the salesperson license examination pending verification that the collection on his credit report is paid. M/C
- s. Commissioners reviewed the application of Timothy K. Krey for a reciprocal broker license. Mr. Krey joined the meeting via conference call to discuss items on his credit report and to answer any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Louser to table Mr. Krey's application pending the receipt of two (2) letters of reference from business associates and additional information on the delinquencies on his credit report. M/C
- t. Commissioners reviewed the application of Marc A. Clingaman for a non-resident broker license. Mr. Clingaman joined the meeting via conference call to explain the misdemeanor on his application. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve Mr. Clingaman to sit for the non-resident license examination. M/C

- u. Commissioners reviewed the application of Kathryn A. Ash for a salesperson license. Commissioner Schlosser recused himself from discussion and voting on Ms. Ash's application. Ms. Ash was present at the meeting to answer any questions the Commissioners may have. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Ms. Ash to sit for the salesperson license examination. M/C
7. REQUEST FOR WAIVER FOR BROKER LICENSE.
- a. Edwin E. Gambee joined the meeting via conference call to discuss with the Commission the reasons he should be granted a waiver from the two year requirement as an active salesperson to qualify for a broker license stating that prior to moving to North Dakota he had a broker license in Oregon. Commissioner Sheridan moved, seconded by Commissioner Schlosser to grant Mr. Gambee the waiver of the 2 year experience as a salesperson, approved him to take the state portion of the real estate examination and upon passage of the exam he will be issued a real estate broker license. M/C
 - b. Commissioners reviewed the broker license application of Steve C. Haaby and his request to have the 2 years of experience as a full time salesperson waived. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Mr. Haaby to take the broker examination. M/C
8. APPEAL OF DENIED APPLICATIONS:
- a. Executive Director Jergenson stated that Ms. Gillmore was to have joined the meeting to discuss the denial of her salesperson application however Ms. Gillmore was not present.
 - b. Carl O. Wuestehube joined the meeting via conference call to appeal the denial of his application for a non-resident broker license. He described to the Commission the steps he is taking to clear his credit report. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Mr. Wuestehube's application pending review of a new credit report to verify the statements made by Mr. Wuestehube regarding the status of his credit report. M/C
9. REVIEW LICENSE APPLICATION OF ROBERT J. SCHMITZ. Mr. Schmitz was present at the meeting and represented by his attorney Zachary E. Pelham. Executive Director Jergenson presented the discrepancies found on Mr. Schmitz salesperson license application stating that Mr. Schmitz had been approved to take the salesperson examination based on his application however since that approval it has been discovered that Mr. Schmitz was not employed as an insurance agent owning his own office and that Mr. Schmitz no longer is in possession of an insurance license. Mr. Schmitz has passed the real estate examination but a license has not been issued. Mr. Schmitz stated that he completed his application based on his attorney's advice (not Mr. Pelham) and gave his side of the investigation into alleged misconduct regarding his insurance license. Commissioner Sheridan moved, seconded by Commissioner Louser to table Mr. Schmitz's application and request additional information from the Department of Insurance. M/C
10. RESPONSE FROM MCKISSOCK LP REGARDING ONLINE CE COMPLETION TIMES. McKissock LP provided statistics on the average completion time for North Dakota students/licensees completing online courses in response to the concern expressed by the Commission with online courses being able to be completed in a much shorter time than the hours they are approved for. One alternative suggested by McKissock school is to require "seat" time which means that the student/licensee must sit at the computer for the time period the course is approved for. It was determined that this was not a feasible way to solve the problem.
11. CONSIDER ESTABLISHING A POLICY REQUIRING A CURRENT CERTIFICATE OF LICENSURE FROM RECIPROCAL AND NON-RESIDENT LICENSEES WITH THEIR ANNUAL LICENSE RENEWAL. Executive Director Jergenson provided references to NDCC § 43-23-08.2 and Administrative Rule 70-02-01-06 to support requiring a certificate of licensure for non-resident and reciprocal licensees with their annual renewal. Jergenson recommended this requirement because staff has found several licensees who no longer maintain the license that the granting of their North Dakota license was based on. Commissioner Sheridan moved, seconded by Commissioner Louser to require

that a current certificate of licensure for non-resident and reciprocal licensees accompany the annual license renewal. M/C

12. REVIEW REVISED COMPLAINT AND PROCEDURES BROCHURE. Commissioners suggested the following: add the revision date to the brochure, print on red paper, number the pages, bold bullet points and reference rules/statutes when applicable.
13. NOTIFICATION OF BANKRUPTCY FILING OF CENGAGE LEARNING. Commissioners were notified of the bankruptcy filing of Cengage Learning doing business as Career Web School. This is relevant because Career Web School is a provider of 14 online courses.
14. ARELLO® ANNUAL CONFERENCE REPORTS: COMMISSIONERS CYMBALUK AND YOUNGBERG AND EXECUTIVE DIRECTOR JERGENSON. Commissioners Cymbaluk and Youngberg filed written reports. Executive Director Jergenson gave a verbal report.
15. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the August 7, 2013 meeting. A list of those waivers is attached to these minutes.
16. SCHEDULE NEXT COMMISSION MEETING. Staff will send out an email to the Commissioner to set a date in early December for a Commission meeting via conference call.
17. COMMISSION GOALS. The goals of the Commission were reviewed.
18. TRAINING. Licensing procedures, values and policies were discussed.
19. OTHER BUSINESS.
 - a. Executive Director Jergenson shared with the Commission a phone call received from Pat Anderson, Assistant Deputy Director, expressing the Alabama Real Estate Commission's appreciation of the condolences sent in the death of their director Philip Lasater.
 - b. Commissioners were updated on the receipt of the briefs for Complaint 2013-12 NDREC v Terrence L. Clement.

There being no further business Chair Cymbaluk adjourned the meeting.

Respectfully Submitted,

Patricia M. Jergenson
Executive Director