

October 10, 2017
8:30 AM CDT
Peace Garden Room
State Capitol
600 E Boulevard Ave
Bismarck, ND 58501

Present in person: Diane Louser/Chair, Roger Cymbaluk/ Vice Chair, Scott Breidenbach/Member, Sandy Meyer/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. All Commissioners were present as well as Executive Director Jergenson and Special Assistant Attorney General Connie Hofland.
2. REVIEW MINUTES OF AUGUST 10, 2017 MEETING. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve the August 10, 2017 minutes as presented. M/C
3. FINANCIAL REPORTS JULY AND AUGUST 2017. Executive Director Jergenson presented the financial reports for July and August 2017. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to accept the July and August 2017 financial reports as presented. M/C
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFFLAND.
 - a. Complaint #2017-05 Shelby Janssen v Denis H. Pippin and Craig M. McIver: Memorandum, Revised. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to accept the recommendation of legal counsel and dismiss the complaint. M/C (4 ayes, 1 nay Commissioner Breidenbach)
 - b. Complaint #2017-06 Scott W. Nelson v Kevin D. Torgerson and Theresa M. Halvorson: Stipulations. Special Assistant Attorney General Connie Hofland presented the stipulated agreements as agreed to by Kevin D. Torgerson and Theresa M. Halvorson. Each respondent has agreed to receive a letter of reprimand to be placed permanently in their file. Commissioner Schlosser moved, seconded by Commissioner Breidenbach to accept both stipulated agreements as presented. M/C
 - c. Complaint #2017-07 NDREC v Shelly F. Lutz: Memorandum. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint in conjunction with Complaint 2017-05. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to dismiss this complaint as recommended by counsel. M/C (4 ayes, 1 nay Commissioner Breidenbach)

- d. Memorandum on Options for “prominently displayed” rule amendments. Special Assistant Attorney General Connie Hofland discussed her memorandum regarding the term “prominently displayed”. Commissioner Schlosser recommended the following verbiage: *Advertising must be done in the real estate brokerage agency’s trade name as licensed with the Commission and the trade name must be prominently displayed as to be “clearly and readily” noticeable. Prominently displayed may relate to size or bolder typeface. Prominently also means the trade name of the brokerage must be similar to or greater than, in size and visibility, the name of any salesperson, broker, associate broker, team or group on the advertising.*
It was the consensus of the Commissioners to use the language suggested by Commissioner Schlosser when amending Administrative Rule 70-02-03-02.1.
 - e. Executive Director provided the Commissioners with a copy of a letter that had been sent to the Commission office citing possible unlicensed activity. Special Assistant Attorney General Connie Hofland stated that in her opinion the letter would not be considered unlicensed activity. Executive Director Jergenson also showed the Commission an anonymous letter citing possible violations of a brokerage. Staff was reminded that it was the policy of the Commission to have staff send a letter to the broker of the firm informing them as a matter of courtesy about the anonymous information that was submitted to the Commission.
5. REVIEW LICENSE APPLICATIONS.
- a. Commissioners reviewed the application of Bryan J. Bergdale for a reciprocal salesperson license. Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to deny Mr. Bergdale a reciprocal ND salesperson license based on the fact that he is on probation. M/C
 - b. Commissioners reviewed the application of Leo J. Brunelli for a salesperson license. Mr. Brunelli joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to table Mr. Brunelli’s application pending his appearance before the Commission with three letters of reference for review (one from his supervisor, one from a community member and one from his prospective broker). M/C (4 ayes, 1 nay Commissioner Schlosser)
 - c. Commissioners reviewed the application of Anjanise N. Burton for a salesperson license. Ms. Burton joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Schlosser to table approval for Ms. Burton to take the real estate salesperson license examination until she provides documentation to staff within one (1) year showing her debts are paid. M/C
 - d. Commissioners reviewed the application of Sara L. Forsberg for a salesperson license. Commissioner Breidenbach moved, seconded by Commissioner Cymbaluk to table approval for Ms. Forsberg to take the real estate salesperson license examination until she provides documentation to staff showing her debts are paid. M/C
 - e. Commissioners reviewed the application of Angela D. Hauff for a salesperson license. Ms. Hauff joined the meeting in person to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Meyer to approve Ms. Hauff to sit for the salesperson license examination. M/C
 - f. Commissioners reviewed the application of Matthew M. McKinney for a salesperson license. Mr. McKinney joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve Mr. McKinney to sit for the salesperson license examination pending verification showing that the items on his credit report have been satisfied is provided to staff. M/C
 - g. Commissioners reviewed the application of Jamie L. Modine for a salesperson license. Ms. Modine joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Breidenbach moved, seconded by Commissioner Meyer to deny Ms. Modine’s application for a salesperson license based on the fact that she has an unresolved IRS tax lien. M/C

- h. Commissioners reviewed the application of Kimberly K. Schuh for a salesperson license. Ms. Schuh joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve Ms. Schuh to sit for the salesperson license examination. M/C
 - i. Commissioners reviewed the application of Heather M. Snowden for a salesperson license. Ms. Snowden joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve Ms. Snowden to sit for the salesperson license examination pending verification showing that the items on her credit report have been satisfied is provided to staff. M/C
 - j. Commissioners reviewed the application of Jenneh B. Wreh for a salesperson license. Ms. Wreh joined the meeting by conference call to discuss any questions the Commissioners might have. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to deny Ms. Wreh's application for a salesperson license. M/C
 - k. Commissioners reviewed the application of Cory J. Zimmer for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Meyer to approve Mr. Zimmer to sit for the salesperson license examination pending verification showing that the items on his credit report have been satisfied is provided to staff. M/C
6. REVIEW BROKER LICENSE APPLICATION OF AMY L. LUNSKI. Commissioners reviewed the broker application of Amy L. Lunski. Ms. Lunski joined the meeting in person to discuss any questions the Commissioners might have. Ms. Lunski addressed the Commission regarding the requirement in NDCC§ 43-23-08(3) to obtain a broker license – in particular the requirement of 2 years full time experience as a salesperson. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to deny Ms. Lunski's application for a broker license as she does not have the experience required to obtain a broker license. M/C (*Executive Director's note: Commissioner Meyer did not vote*).
7. REVIEW A REQUEST FOR WAIVER OF THE 2 YEARS OF EXPERIENCE AS A SALESPERSON AND BROKER LICENSE EDUCATION FROM MARY L. DAHL FOR A BROKER LICENSE. Commissioner Meyer recused herself from discussion and voting on this application. Ms. Dahl joined the meeting in person to discuss any questions the Commissioners might have. She stated that her request is based on her experience as a broker in California and that she still has an active California license which is in good standing. Commissioner Breidenbach moved, seconded by Commissioner Schlosser to waive the broker education and 2 years of experience as a salesperson and Ms. Dahl is to take the state portion of the ND real estate license examination. M/C
8. REVIEW TABLED APPLICATION OF TALLENA R. THOM. Ms. Thom's application for a salesperson license was tabled by the North Dakota Real Estate Commission at its meeting on February 24, 2017 pending receipt of written documentation showing that she had entered into a payment plan regarding the items in collection on her credit report. Ms. Thom provided the requested documentation and a letter of reference. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to approve Ms. Thom to take the salesperson examination. M/C
9. DISCUSS APPROVAL OF COMPANY WITH SIMILAR NAME. Roxie Auck joined the meeting via conference call to discuss her application for a firm license under the name of Legacy Real Estate. The Commission also received a letter from Brenda Martinson, broker of RE/MAX Legacy Realty asking the Commission to not approve a firm license for Legacy Real Estate. Commissioners reviewed ND Administrative Rule 70-02-01-13. Commissioner Breidenbach moved, seconded by Commissioner Meyer to deny the approval of the business name Legacy Real Estate for a real estate firm license. M/C
10. REQUESTED RESPONSES OF LICENSEES WITH CONTINUING EDUCATION AUDIT ISSUES. Commissioners reviewed the requested responses from the three individuals who had certified on their 2017 license renewals that they had completed their continuing education at the time of renewal but during the continuing education audit it was discovered that they actually had not completed their continuing education as they had certified.

11. REVIEW STATUS OF REAL ESTATE LICENSE FOR SEALED BID MARKETING, INC. Executive Director Jergenson informed the Commission that staff had notified Gerald Clark, broker of Sealed Bid Marketing, Inc. twice that according to the ND Secretary of State's office Sealed Bid Marketing, Inc. had been dissolved and therefore he needed to provide documentation to the Commission office that his corporation was in good standing with the ND Secretary of State before he could conduct business in North Dakota. To date Mr. Clark has not responded and according to the ND Secretary of State's website his corporation is still dissolved. Ms. Jergenson stated that Mr. Clark's reciprocal ND real estate broker license should be placed on inactive status. Commissioner Cymbaluk moved, seconded by Commissioner Breidenbach to ratify Ms. Jergenson's recommendation and place Mr. Clark's license on inactive status.
M/C
12. UPDATE ON CREDIT CARD PROCESSING: KRISTI HASS/ADMINISTRATIVE ASSISTANT. Ms. Hass reported to the Commission that she is still researching available vendors to handle credit card processing availability year round.
13. UPDATE ON ADMINISTRATIVE RULES COMMITTEE INTERIM STUDY ON MEMBERSHIP AND STATE SUPERVISION OF THE STATE'S OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS. Executive Director Jergenson attended the September 12, 2017 Administrative Rules Committee meeting and shared that the Committee developed a plan of action for gathering more information for their next meeting scheduled for December 5, 2017. Commissioners also received a copy of an op/ed written by Lloyd Omdahl which was supportive of the effectiveness of boards and commissions in North Dakota as they are now structured.
14. BISMARCK-MANDAN BOARD OF REALTORS SOCIAL MEDIA ADVERTISING TASK FORCE UPDATE. Desri Nether, Chair of the Bismarck-Mandan Board of Realtors Social Media Advertising Task Force presented a recommendation from the task force to restate question #2 on the Q&A on Advertising Rules to read as follows:
*2. Do I need to have my brokerage contact information in each social media post?
The licensee's name and brokerage MUST be identified in the initial post. Brokerage contact information must be included in the post or within one click.*
Commissioner Breidenbach moved, seconded by Commissioner Schlosser to approve the recommended revision to the Q&A on Advertising Rule. M/C Commissioner Breidenbach thanked the Bismarck-Mandan Board of Realtors for their efforts.
15. NORTH DAKOTA ASSOCIATION OF REALTORS (NDAR) PRE-LICENSING TASK FORCE UPDATE. Jill Beck, NDAR CEO, stated that the task force has not had a meeting since Commissioner Cymbaluk was appointed to the task force and one will be scheduled in the near future.
16. NORTH DAKOTA ASSOCIATION OF REALTORS (NDAR) REQUEST REGARDING THEIR TEAMS TASK FORCE. Jill Beck, NDAR CEO informed the Commission that NDAR will be establishing a task force to research possible legislation regarding teams and asked for participation by a commissioner and Executive Director Jergenson. Commissioner Breidenbach volunteered to participate on the task force.
17. ARELLO DISTRICT 2 & 3 CONFERENCE REPORT: EXECUTIVE DIRECTOR JERGENSON. Executive Director Jergenson filed a written report on the conference.
18. ARELLO@ ANNUAL CONFERENCE REPORTS: COMMISSIONER BREIDENBACH AND EXECUTIVE DIRECTOR JERGENSON. Commissioner Breidenbach provided a written report.
19. REVIEW APPROVED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the August 10, 2017 meeting. A list of those waivers is attached to these minutes.
20. DISCUSS COMMISSION PRIORITIES. Commissioners reviewed the revised list of priorities.

21. OTHER BUSINESS:

- The Commission received a request for an extension to complete the 9 hours of continuing education for 2017 from Dorothy Martwick on behalf of Andrew Gudmunson who had been shot in the recent Las Vegas shooting. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to allow Mr. Gudmunson the time he needs to complete the continuing education. M/C
- Executive Director Jergenson presented the proposal from TAO Interactive to bring the Commission's website into compliance with federal guidelines for ADA accessibility. It was the consensus of the Commissioners to move forward with this project.
- Commissioners received a copy of the National Association of REALTORS "Profile of Real Estate Firms 2017" for information only.
- Submitting Jerry Youngberg's name to ARELLO for Emeritus member status was discussed and supported by the Commissioners.
- Commissioners discussed December 12, 2017 as a possible date for the next meeting.

There being no further business Chair Louser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director