

October 17, 2012  
8:15am Central Daylight Time  
North Dakota Real Estate Commission  
Bank of North Dakota  
Conference/Training Room (2<sup>nd</sup> floor)  
1200 Memorial Highway  
Bismarck ND

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. All members were present. Guests were welcomed.
2. APPROVE MINUTES OF AUGUST 23, 2012 MEETING. Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the minutes of August 23, 2012. M/C
3. FINANCIAL REPORTS: JULY, AUGUST AND SEPTEMBER 2012. Executive Director Jergenson went over the July, August and September 2012 financial reports. She suggested that \$100,000 from the American Bank Center money market account be withdrawn and invested. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to transfer \$100,000 from the American Bank Center account and place in a CD for up to one year. M/C Commissioner Sheridan moved, seconded by Commissioner Schlosser to approve the financial reports for July, August and September 2012 as presented. M/C
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONSTANCE HOFLAND.
  - a. Complaint #2012-11 Erika Sleger v Dennis G. Nelson. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Youngberg to set this complaint for a hearing. M/C
  - b. Complaint #2012-12 Jerusha H. Seal v Lori A. Jackson and Joe J. Frenzel. Special Assistant Attorney General Connie Hofland presented the results of her investigation of this complaint. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to follow the recommendation of Ms. Hofland and dismiss this complaint. M/C
  - c. Complaint #2012-16 NDREC v Orville G. Tranby Stipulated Agreement. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Orville G. Tranby in which Mr. Tranby agrees to pay a fine of \$250 and \$280 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C

- d. Complaint #2012-18 NDREC v Derrick M. Kuenzel Stipulated Agreement. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Derrick M. Kuenzel in which Mr. Kuenzel agrees to pay a fine of \$250 and \$280 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
- e. Complaint #2012-19 NDREC v Timothy L. Crary Stipulated Agreement. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Timothy L. Crary in which Mr. Crary agrees to pay a fine of \$250 and \$280 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
- f. Complaint #2012-21 NDREC v Norman D. Steinle Stipulated Agreement. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Norman D. Steinle in which Mr. Steinle agrees to pay a fine of \$250 and \$280 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
- g. Unclaimed Property. Special Assistant Attorney General Connie Hofland presented her memo on how the Unclaimed Property Act applies to abandoned earnest money deposits in real estate broker trust accounts. It is her opinion and that of the Unclaimed Property Division that trust account funds are considered unclaimed property. Her memo also included proposed language for the Administrative Rules to directly address this point. The proposed language was discussed and amended to read: Section 70-02-01-15 (2) could be amended by adding a subsection (d):  
*(d) Abandoned deposits. If a deposit remains unclaimed in a broker's trust account for more than three years, it is deemed abandoned and the broker shall remit the deposit to the unclaimed property division of the land department as required by chapter 47-30.1.*
- h. Complaint #2012-17 NDREC v Jean A. Jiskra Stipulated Agreement. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Jean A. Jiskra in which Ms. Jiskra agrees to pay a fine of \$250 and \$280 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
- i. Complaint #2012-20 NDREC v Leann R. Vollmer Stipulated Agreement. Special Assistant Attorney General Connie Hofland presented the signed Stipulation and Settlement Agreement from Leann R. Vollmer in which Ms. Vollmer agrees to pay a fine of \$250 and \$280 legal/investigative costs within 30 days of Notice of Entry of the Order. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve the Stipulation and Settlement Agreement as presented by Ms. Hofland. M/C
- j. Ms. Hofland informed the Commission that the district court appeal of Complaint #2011-07 NDREC v Scott C. Louser has been dropped by Mr. Louser.

5. TRUST ACCOUNT AUDIT FINDINGS: RHONDA MAHLUM/MAHLUM GOODHART PC.
  - a. Commissioner Youngberg recused himself from discussion and action on this item. Ms. Mahlum presented her findings of recurring issues in the trust account audits of Kevin C. Ritterman, broker of Dakota Commercial & Development Company. Commissioner Sheridan moved, seconded by Commissioner Schlosser to file a complaint against Mr. Ritterman for repeated trust account violations and offer the abbreviated process with a stipulated agreement. M/C
6. REVIEW BROKER LICENSE APPLICATION OF ROBERT L. TIMM AND RESPONSES.

Mr. Timm appeared before the Commission in person to address the concerns that have been expressed regarding his qualifications as a broker. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to table any action on Mr. Timm's application until more information is received regarding the restraining order filed against him and there has been a resolution of this situation. M/C
7. REVIEW APPLICATION OF JAMES B. MAHN FOR NON-RESIDENT BROKER LICENSE.

Executive Director Jergenson presented to the Commission areas of inconsistency on Mr. Mahn's application and information received from the Wisconsin Department of Safety and Professional Services. Commissioner Schlosser moved, seconded by Commissioner Sheridan to deny the application of James B. Mahn for a non-resident broker license due to false or misleading information on his application. M/C
8. REQUEST FOR WAIVER FOR EXPERIENCE TO OBTAIN BROKER LICENSE.
  - a. Ronald J. Rauch appeared before the Commission to request a waiver of the two year active experience as a salesperson and asked that he be allowed to take the broker license examination. Mr. Rauch stated that he had been a real estate broker in California for over 25 years prior to moving to North Dakota. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to waive the two year salesperson experience requirement and allow Mr. Rauch to sit for the broker examination. M/C
9. REVIEW LICENSE APPLICATIONS.
  - a. Commissioners reviewed the application of Jayme S. Bochman for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Mr. Bochman to sit for the salesperson real estate license examination. M/C
  - b. Commissioners reviewed the application of Derek T. E. Brandenburg for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Mr. Brandenburg to sit for the salesperson real estate license examination. M/C
  - c. Commissioners reviewed the application of Karah J. Hanson for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Ms. Hanson to sit for the salesperson real estate license examination. M/C
  - d. Commissioners reviewed the application of John "Jack" R. Harris for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Mr. Harris to sit for the salesperson real estate examination pending he provides proof to the Executive Director that the federal tax lien is paid in full. M/C
  - e. Commissioners reviewed the application of Theresa G. Hart for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Ms. Hart to sit for the salesperson real estate license examination. M/C
  - f. Commissioners reviewed the application of Rita M. Hassenstab for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Ms. Hassenstab to sit for the salesperson real estate license examination. M/C

- g. Commissioners reviewed the application of Tressa L. Hegel for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Ms. Hegel to sit for the salesperson real estate license examination. M/C
- h. Commissioners reviewed the application of Rod C. Hulbert for a reciprocal salesperson license. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to approve Mr. Hulbert's application for a reciprocal salesperson license. M/C
- i. Commissioners reviewed the application of Katie C. Laidley for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Ms. Laidley to sit for the salesperson real estate license examination. M/C
- j. Commissioner Sheridan recused herself from discussion and action on this application. Commissioners reviewed the application of Nathan A. Larson for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to approve Mr. Larson to sit for the salesperson real estate license examination. M/C
- k. Commissioners reviewed the application of Gladys I. Maasjo for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve Ms. Maasjo to sit for the salesperson real estate license examination pending the receipt of a California certificate of licensure. M/C
- l. Commissioners reviewed the application of Cassandra R. Olson for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve Ms. Olson to sit for the salesperson real estate license examination. M/C
- m. Commissioners reviewed the application of Edwin J. Ployhart for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Cymbaluk to approve Mr. Ployhart to sit for the salesperson real estate license examination. M/C
- n. Commissioners reviewed the application of Gem M. Swensen for a salesperson license. Ms. Swensen appeared before the Commission to explain the items in collection on her credit report. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to approve Ms. Swensen to sit for the salesperson real estate license examination. M/C
- o. Chair Diane Louser turned the chair over to Vice Chair Cymbaluk and recused herself from discussion and action on the application. Commissioners reviewed the application of Dawn M. Poitra for a salesperson license. Commissioner Youngberg moved, seconded by Commissioner Sheridan to table Ms. Poitra's application for further explanation from the applicant regarding issues on her credit report. M/C Vice Chair Cymbaluk returned the Chair to Commissioner Louser.
- p. Commissioners reviewed the application of Veronica Corona for a salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to table the application of Ms. Corona and request an explanation from the applicant regarding the items in collection on her credit report. M/C
- q. Commissioners reviewed the application of Richard B. Harris for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve Mr. Harris to sit for the salesperson real estate license examination pending a clear background check. M/C

10. ERRORS AND OMISSIONS INSURANCE CARRIER RENEWAL DISCUSSION. Executive Director Jergenson informed the Commissioners that RISC had been approved via email responses as the 2013 E&O carrier for North Dakota with a premium increase of \$15. The premium for 2013 is \$182.00. Staff has compiled a few questions Commissioners wanted to ask RISC and those questions will be posed to RISC after license renewals.
11. MANDATORY COURSE FOR 2013. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to not have a mandatory course required in 2013 and to review possible topics for 2014 early this spring. M/C Staff will place this item on the agenda in the spring of 2013.
12. UND PRE-LICENSING COURSE UPDATE. Executive Director Jergenson provided the Commission with an update of the status of UND's (University of North Dakota) revision of their online pre-licensing course. The Commission also discussed the AMP School Summary Statistics report for January 1 – October 12, 2012 noting that a significant number of salesperson applicants had not reported where they had taken their pre-licensing education. Staff will contact AMP to see if that information can be entered at a later date. Concerns have surfaced regarding OnGoing Education's pre-licensing course. Staff will address this in correspondence with Theresa Halvorson of OnGoing Education.
13. FUTURE LEGISLATION. Staff has compiled a list of Administrative Rule changes the Commission has discussed over time which could be considered after the 2013 Legislative session. These items can be addressed through administrative rule and do not require any changes in statute. NDAR CEO Jill Beck stated that the association is considering/monitoring legislation on property management, transfer tax, property tax, and full disclosure.
14. AMP ADVISORY BOARD UPDATE. Executive Director Jergenson filed a written report for review.
15. ARELLO@ ANNUAL CONFERENCE REPORTS: COMMISSIONERS CYMBALUK AND YOUNGBERG, EXECUTIVE DIRECTOR JERGENSON. Written reports were filed for review.
16. STAFF UPDATE. Executive Director Jergenson informed the Commission that a part-time administrative assistant has been hired through a staffing agency.
17. DISCUSS NEXT COMMISSION MEETING DATE. It was the consensus of the Commission to have the next meeting via conference call in early December.
18. REVIEW GRANTED TRUST ACCOUNT WAIVERS. Commissioners received a report of trust account waivers granted since the August 23, 2012 meeting. A list of those waivers is attached to these minutes.
19. COMMISSION GOALS. The goals of the Commission were reviewed.
20. OTHER BUSINESS.
  - a. Staff asked the Commission what to do about items dropped off at the Commission office in June of 2010 to be used as possible evidence in a complaint that was never filed. Staff will try to locate the individual to return the gift certificate if they want it.
  - b. License renewal information will be sent out the end of October and also posted on our website. New this year is a renewal form for broker associates.

There being no further business Chair Louser adjourned the meeting,

Respectfully submitted,

Patricia M. Jergenson  
Executive Director