

October 23, 2008
8:00 AM
ND Real Estate Commission – Conference Call
1st Floor Conference Room
200 E Main Ave
Bismarck, ND

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

1. CALL MEETING TO ORDER. Chair Roger Cymbaluk called the meeting to order. Roll call was taken. Commissioners Cymbaluk and Schlosser, Special Assistant Attorney General Constance Hofland, and Executive Director Jergenson were present in the conference room with the others joining by conference call. Two of the hearings that were scheduled were granted postponements. Complaint # 2008-02 NDREC v Trautmann stipulated.
2. APPROVE MINUTES OF SEPTEMBER 17, 2008 MEETING. Commissioner Louser moved, seconded by Commissioner Youngberg to approve the September 17, 2008 minutes. M/C
3. APPROVE FINANCIAL REPORTS FOR AUGUST AND SEPTEMBER 2008. Director Jergenson reviewed the financial reports for August and September. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the August 2008 financial report as presented. M/C Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve the September 2008 financial report as presented. M/C Executive Director Jergenson will provide the 3rd quarter CD reports at the next meeting.
4. LEGAL UPDATE: SPECIAL ASSISTANT ATTORNEY GENERAL CONNIE HOFLAND.
 - a. Complaint # 2008-11 NDREC v Brian Gullickson. Special Assistant Attorney General Constance Hofland presented the results of her investigation of this complaint. Commissioner Schlosser moved, seconded by Commissioner Louser to set this complaint for hearing. M/C
 - b. John T. Schneider trust account audit response. Assistant Attorney General Constance Hofland presented the results of her investigation of the auditor's report regarding unresolved issues with Mr. Schneider's trust account. Commissioner Youngberg moved, seconded by Commissioner Schlosser to accept Ms. Hofland's recommendation to re-audit Mr. Schneider's trust account in 1 year. M/C
 - c. Complaint # 2007-15 Marvin Greenberg v Richard Ward. Assistant Attorney General Constance Hofland informed Commissioners that she had received an email from Marvin J. Greenberg asking to withdraw Complaint # 2007-15 against Richard Ward.

Commissioner Youngberg moved, seconded by Commissioner Schlosser to accept Mr. Greenberg's request to withdraw the complaint. M/C

- d. Assistant Attorney General Constance Hofland presented the proposed stipulated agreement for Complaint #2008-02 NDREC v Clyde Trautmann which was scheduled for a hearing today. The proposed agreement would assess investigative/legal costs of \$850, another audit in 6 months to be paid for by Trautmann, and a \$2500 deferred fine (if the audit shows no discrepancies the fine would not be assessed). Commissioner Youngberg moved to accept the stipulated agreement as presented. Motion died for lack of a second. Commissioner Schlosser moved to accept the stipulated agreement with the following changes: Trautmann is assessed a fine in the amount of \$2500, \$1250 of which is to be assessed now, investigative/legal costs of \$1200 and if the audit completed in 6 months finds violations the remainder of the fine in the amount of \$1250 will be assessed. M/C
5. PRESENTATION OF ANNUAL AUDIT: RHONDA MAHLUM, MAHLUM & GOODHART PC.
Ms Mahlum represented the annual audit and reported that the audit was a clean opinion and had received the highest rating under government auditing standards. The Commission was reminded to review the pledge of securities semi-annually as required by state law. Commissioner Youngberg moved, seconded by Commissioner Sheridan to accept the audit as presented. M/C.
6. REPORT BY MAHLUM & GOODHART PC REGARDING THE PRESENTATION OF OUR AUDIT TO THE LEGISLATIVE AUDIT & FISCAL REVIEW COMMITTEE: RHONDA MAHLUM.
Ms Mahlum stated that she had presented both the June 30, 2007 and June 30, 2008 audits to the Legislative Audit & Fiscal Review Committee on October 20, 2008. There were no questions or comments from the committee.
7. RETAINER FEES: WHERE SHOULD THEY BE DEPOSITED? It was the consensus of the Commission that retainer fees should be deposited to the general account and if it becomes part of a purchase agreement as earnest money then it should be moved to the trust account.
8. REVIEW AMENDMENT TO RECIPROCAL LICENSE AGREEMENT WITH OKLAHOMA.
Oklahoma presented a change to our reciprocal agreement which requires non-resident applicants for Oklahoma real estate licenses to successfully complete the jurisdiction specific law portion of the Oklahoma real estate license examination. Commissioner Youngberg moved, seconded by Commissioner Sheridan to accept the amendment to the reciprocal agreement with Oklahoma with no change to our requirements. M/C
9. REVIEW REQUEST OF CHAD A. MOLDENHAUER FOR WAIVER TO OBTAIN A BROKER LICENSE. Mr. Moldenhauer presented his request to the Commissioners to waive the 2 years of experience as a salesperson required prior to taking the broker real estate exam and to accept the education he has taken to acquire his attorney's license as the 60 hours of education required to take the broker real estate exam. Commissioner Youngberg moved, seconded by Commissioner Louser to waive the salesperson experience and accept the education submitted by Mr. Moldenhauer and approved him to take the real estate broker examination. M/C Mr. Moldenhauer will be the first applicant to take the broker simulation examination so Commissioners asked him to provide feedback on the exam format.
10. REVIEW APPLICATIONS FOR SALESPERSON LICENSES.
 - Commissioners reviewed the application of Jennifer C. Shaver for a salesperson license. Commissioner Schlosser moved, seconded by Commissioner Sheridan to approve Ms. Shaver to sit for the real estate salesperson examination. M/C
 - Commissioners reviewed the application of Michael J. Syvertson for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Youngberg to table action on this application and request additional information regarding the applicant's answer to question # 16 on the application. M/C

11. ADVERTISING VIOLATIONS. Commissioners were provided with a list of recipients of letters from the Commission office regarding violations of the advertising rule. Staff presented a copy of an ad in which the licensee has a reciprocal ND license and is advertising a Minnesota property in a North Dakota publication with the question: Does this licensee's ad need to comply with the North Dakota Administrative Rule 70-02-03-021. Advertising? This will be sent to legal counsel for an opinion.
12. REVIEW PROPOSED BID TO PRINT "BROKERS' RECORDS OF PROFESSIONAL ACTIVITY" BROCHURE. Executive Director Jergenson proposed to Commissioners to print the brochure and mail it to each broker with the 2009 license seals as well as placing it on the web site. It was the consensus to change the title of the brochure to "Guidelines for Record Keeping". Commissioner Sheridan moved, seconded by Commissioner Louser to approve the printing of the brochure by Quality Printing. M/C
13. DISCUSS POSSIBLE CORRECTION TO MINUTES OF JUNE 12, 2007. Executive Director Jergenson asked the Commissioners to review the last sentence in item b under Other Business of the June 12, 2007 minutes. This item reads: "The new broker will be asked to provide a written statement to the Commissioners to review at a regularly scheduled meeting." Commissioner Sheridan moved, seconded by Commissioner Youngberg to amend the June 12, 2007 minutes item b under Other Business to read: The **current** broker will be asked to provide a written statement to the Commissioners to review at a regularly scheduled meeting. M/C
14. POLICY FOR STAFF ON GIVING AND RECEIVING GIFTS. Executive Director Jergenson presented the Commissioners with an excerpt from the OMB policy manual regarding "Giving and Receiving Gifts/Money" and asked for clarification of the Commission's policy on this issue. It was the consensus to follow the policy as set by OMB which states in part that employees may not give or receive anything of more than a nominal value of \$60.
15. DISPOSAL OF COMPUTER HARD DRIVES. Staff may have the old computer hard drives once the data and programs have been deleted.
16. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Sheridan moved, seconded by Commissioner Louser to approve the requests for trust account waivers as attached to these minutes. M/C
17. COMMISSION GOALS. Commissioners reviewed the list of goals.
18. OTHER BUSINESS:
 - a. Commissioner Youngberg moved, seconded by Commissioner Louser to have Commissioner Schlosser as a signatory on all Commission bank accounts and CDs. M/C
 - b. Executive Director Jergenson presented the following scenario: an application for licensure and supporting documents are signed and dated but not submitted to our office until 6 months later. Are they still considered current? Discussion on a timeframe staff should be following between the dates on the documents and the date we receive them in the office. Commissioner Sheridan moved, seconded by Commissioner Schlosser to set a policy requiring that an application for licensure be completed within 90 days of the signature date on the application and if not the applicant must re-file and begin the process again. M/C
 - c. Executive Director Jergenson informed the Commissioners that she is developing a professional development plan for personnel.
 - d. Commissioners requested that the December meeting and hearing date be scheduled as soon as possible.

There being no further business Chair Cymbaluk adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Executive Director