

September 15, 2004
Room 2130
Best Western Ramkota Hotel
Bismarck, ND
2:30 PM

Present: Kris Sheridan/Chair, Jerry Youngberg/Vice Chair, Jerry Schlosser/Member,
Diane Louser/Member, Roger Cymbaluk/Member, Patricia M.
Jergenson/Secretary Treasurer, David Reich/Legal Counsel

Chair Kris Sheridan called the meeting to order.

1. APPROVE MINUTES OF THE PREVIOUS MEETINGS JUNE 9, 2004 AND AUGUST 16, 2004. Commissioner Youngberg moved, seconded by Commissioner Louser to approve the minutes of the June 9, 2004 meeting as written. M/C Commissioner Youngberg moved, seconded by Commissioner Schlosser to approve the minutes of the August 16, 2004 meeting as written. M/C
2. APPROVE FINANCIAL REPORTS FOR JUNE AND JULY 2004. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the financial report for June 2004. M/C Commissioner Schlosser moved, seconded by Commissioner Youngberg to approve the financial report for July 2004. M/C Staff was asked to provide a comparison of last year to current year in future budget reports.
3. REVIEW OF FORMAL COMPLAINTS PENDING BEFORE THE NORTH DAKOTA REAL ESTATE COMMISSION.
Complaint# 2004-01 Bob Edwards v. Candice Dempsey. Commissioners reviewed the formal complaint filed by Bob Edwards alleging that Candice Dempsey failed to represent the interests of the complainant sellers when the buyers defaulted on a contract for deed. Mr. Reich recommended dismissal of the complaint, as it appears that there is not sufficient evidence of a violation of any of the applicable statutes and regulations to proceed to hearing on this matter. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to dismiss the complaint. M/C
4. REVIEW APPLICATIONS FOR SALESPERSON LICENSE.
Carryover from April 14, 2004 meeting:
 - a. Commissioners discussed the application and additional information provided by Daryn T. Fryer. Commissioner Cymbaluk moved, seconded by Commissioner Louser to allow Mr. Fryer to sit for the real estate exam. M/C
 - b. Commissioners heard additional information regarding David P. Murphy. According to verbal information from the Court

Administrator in Duluth, MN Mr. Murphy is on supervised probation resulting from a domestic assault charge until December 8, 2005. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to deny the application of Mr. David Murphy with the understanding that staff receives written verification from the Duluth Court Administrator and that Mr. Murphy may reapply once he has completed his probation. M/C

Carryover from June 9, 2004:

- a. There has been no response from Ryan G. Eckroth at this time.

New applications:

- a. Commissioners reviewed the application for a salesperson license from Tana M. Gregerson. Commissioner Cymbaluk moved, seconded by Commissioner Schlosser to deny the application of Ms. Gregerson based on NDCC43-23-11.1(f). M/C
- b. Commissioners reviewed the application for a salesperson license from Ryan R. Neal. Commissioner Schlosser moved, seconded by Commissioner Youngberg to deny the application of Mr. Ryan based on the felony conviction and additional information Mr. Ryan had provided. M/C
- c. Commissioners reviewed the application for a salesperson license from Sheila A. Weinberger. Commissioner Louser moved, seconded by Commissioner Youngberg to approve Ms. Weinberger to sit for the real estate exam. M/C

5. REVIEW APPLICATION FOR BROKER'S LICENSE.

Carryover from June 9, 2004 meeting:

- a. Mr. Reich reviewed items leading up to this appearance by Ms Becker. Ms Becker provided additional letters of reference. Mr. Reich asked Ms Becker several questions regarding her past work history and situations in her employment at BNC. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to allow Ms Becker to sit for the real estate broker exam. M/C (2 nays: Commissioner Louser and Commissioner Schlosser).

6. APPEARANCE BY DEBORAH A. THOMPSON. Ms Thompson and J. Scott Hettinger appeared before the Commission regarding the cancellation of Ms Thompson's real estate salesperson license and requested that she not be required to reapply or retake the salesperson license exam. Commissioners noted that the law is very specific regarding license renewal and that the Commission does not have the authority to change procedure as outlined in the law. Commissioner Cymbaluk moved, seconded by Commissioner Louser to deny Ms Thompson's request to waive the requirement to take the real estate exam and that the prior pre-licensing education she has taken will be accepted. M/C

7. REVIEW JUDGMENT AGAINST WES BAILEY AND MAIN & COMPANY REALTORS®. Mr. Reich informed the Commission that the judgment entered against Wes Bailey and Main & Company REALTORS® contained charges of fraud and financial damages. Commissioner Youngberg moved, seconded by Commissioner Cymbaluk to have Mr. Reich research bringing a complaint against the principal of Main & Company REALTORS®. M/C

8. REVIEW ERRORS AND OMISSIONS 2ND QUARTER CLAIMS REPORT.
Commissioners reviewed the 2nd quarter Errors & Omissions claims report provided by RISC Insurance.
9. REVIEW RENEWAL LETTER FOR E & O INSURANCE FROM RISC. Commissioner Youngberg moved, seconded by Commissioner Louser to renew the real estate errors and omissions program with RISC through January 1, 2006. M/C
10. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve the requests for trust account waivers as attached to these minutes. M/C
11. DISCUSS POSSIBLE LEGISLATIVE ISSUES FOR THE UPCOMING SESSION. Claus Lembke, NDAR EVP, provided Commissioners with a list of legislative items NDAR is considering. Some items under consideration are: changing ce requirement to 9 ce hrs every year, post licensing education, allowing the incorporation of salespeople for tax purposes, and meth disclosure. The opinion received from the Attorney General regarding the need for licensees to disclose information regarding meth labs on a listed property was discussed. Mr. Reich stated that he believed that the buyer agent should make the inquiry to the listing agent/seller and that this is a disclosure issue. NDAR would like an AG opinion on the verbiage "must" in the AG's opinion. Commissioner Youngberg moved, seconded by Commissioner Schlosser to have Mr. Reich request clarification from the Attorney General of the words "should" and "must". M/C It was the consensus that NDAR would write the legislation to change the continuing education requirement to 9 hours every year. It was noted that there would be some rules changes that the Commission will need to consider after this Legislative session.
12. BROKER CERTIFICATION OF CONTINUING EDUCATION ON RENEWAL FORM.
Staff presented a sample renewal form with the suggested verbiage to be used this year. Continuing education certificates will not be required to be attached to the renewal forms but each broker will certify that the licensees in his/her office have completed the continuing education as required. The Commission will conduct random continuing education audits. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to approve this change effective with the 2005 license renewals. M/C
13. DESIGN OF WEB SITE. Commissioners discussed an email from ARELLO EVP Craig Cheatham regarding ARELLO's capability of hosting a website for the real estate Commission. Staff suggested that licensing software should be considered before a web site is established. Information on software was reviewed. Commissioner Cymbaluk moved, seconded by Commissioner Youngberg to get detailed cost and design information on licensing software to be discussed at the next meeting of the Commission. M/C
14. ARELLO DISTRICT CONFERENCE REPORT. A written report was provided in the Commission meeting packets for informational purposes
15. RECEIPT OF NSF CHECKS. Staff reported that NSF checks had been received from Corey Krueger and Gabriel Line. Both licensees have provided payment to the Commission as well as verification that their checking accounts are in good order. No action was taken.
16. INTERPRETATION OF RULE 70-02-01-02(5). Possible revision of this rule will be discussed after the Legislative session has concluded.

17. DISCUSS THE FLYER FOR THE BID SALE OF PROPERTY BY A BANK. A licensee brought the flyer in question asking if this was against license law. Consensus was that it appeared that the bank was acting in accordance with NDCC 43-23-07 Real estate brokers and salespersons exceptions.
18. FUTURE MEETING DATES. Dates that would not be conducive as future meeting dates were noted.
19. OTHER BUSINESS:
 - a. The length of time documentation of dismissed complaints was discussed and the consensus was to keep them for 1 year.
 - b. The question of subleasing the additional office space available to the commission was discussed.
 - c. Attendance at the Annual ARELLO Conference in Pittsburgh was discussed.
 - d. Chair Sheridan asked Commissioners to give some thought to what the 2005 goals for the Commission should be.

There being no further business Chair Sheridan adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson
Secretary Treasurer