

September 13, 2006  
3:00 PM  
Holiday Inn of Fargo  
3803 13<sup>th</sup> Ave S  
Fargo ND

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

1. CALL MEETING TO ORDER. Chair Jerry Schlosser called the meeting to order and guests were welcomed.
2. APPROVE MINUTES OF AUGUST 10, 2006. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to accept the minutes of August 10, 2006 as presented. M/C
3. APPROVE FINANCIAL REPORTS FOR JULY AND AUGUST 2006. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the financial reports for July and August 2006 as presented. M/C
4. LEGAL UPDATE.
  - a. Special assistant attorney general Jerry Kettleon joined the meeting via conference call to discuss the 2 complaints he is investigating for the Commission.  
Complaint# 2006-04 (Doug Adam v. Curt Tjon): Commissioner Sheridan excused herself from the meeting prior to Mr. Kettleon presenting his report. Special assistant attorney general Connie Hofland also was not present at this time due to potential conflicts with the 2 complaints Mr. Kettleon is investigating for the Commission. Commissioners reviewed the formal complaint filed by Mr. Adam alleging that Curt Tjon incorrectly represented to Mr. Adam that the home he purchased was a modular home and that he interfered in the agency relationship between Mr. Adam and his agent. Mr. Kettleon recommended that this complaint be dismissed as there appeared to be insufficient evidence that Mr. Tjon interfered with the agency relationship, willfully misrepresented the value of the house, or failed to handle negotiations in a timely manner. Commissioner Youngberg moved to dismiss Complaint # 2006-04, seconded by Commissioner Louser. M/C  
Complaint# 2006-03 (Doug, Stan & Reed Opland v. Sheldon Gudmunson). Commissioner Sheridan rejoined the meeting at this time. Mr. Kettleon stated that this complaint is very complicated and will require at least another month to investigate.

- b. Special assistant attorney general Constance Hofland joined the meeting via conference call to discuss the complaints she is investigating for the Commission. Complaint# 2006-13 (NDREC v. Darlene Feil). Ms Hofland presented the facts leading up to the filing of the complaint against Ms Feil by the Commission and facts she has gathered since this was tabled at the last Commission meeting because of the need for more information regarding the timing of the property transaction for which Ms Feil received a commission. Commissioner Sheridan moved, seconded by Commissioner Youngberg to dismiss Complaint# 2006-13. M/C  
Status of pending complaints. Ms Hofland reported that there are 8 pending complaints and that there have been 19 complaints filed since January 1, 2006. She is still waiting for documents to complete the file on Complaint# 2005-05. Commissioners agreed that Ms Hofland should send the investigative reports on these pending complaints to them as they are completed.
5. REQUEST FOR HEARING REGARDING DENIED APPLICATIONS.
  - a. Billye J. Coenen appeared before the Commission regarding the denial of her request to have the requirement to be a full time salesperson for 2 years prior to taking the broker examination waived. Ms Coenen explained the reasons for her request. Commissioner Youngberg moved, seconded by Commissioner Louser to approve Ms Coenen to sit for the broker's examination. M/C
  - b. Cory J. Theuninck, Orville Tranby, and Angela M. Wentz requested to appear before the Commission but none of them were present at this meeting.  
Secretary Treasurer Jergenson noted that there are several applicants that she has been trying to coordinate a time with to appear before the Commission because they have asked for hearings regarding the denial of their application and they either do not respond or the date does not work in their schedule. Special assistant attorney general Hofland was asked to provide guidance as to how long staff is required to try to make these arrangements. Ms Hofland's opinion states that the applicant should be given 20 days notice of the hearing and that the Commission has no obligation to continue to reschedule or postpone the scheduling to accommodate the applicant. She also noted that if additional information is requested from an applicant that the responsibility of the Commission is to provide a reasonable time for the applicant to provide the requested information, to notify the applicant of a deadline to provide the information (20 to 30 days) and if the information is not received within that time the application will be cancelled.
6. REVIEW APPLICATIONS FOR SALESPERSON LICENSES.
  - a. Commissioners reviewed the application of Carole L. Gulland for a reciprocal salesperson license. Commissioner Cymbaluk moved, seconded by Commissioner Sheridan to deny Ms Gulland's application and request clarification of her state of residency. M/C
  - b. Commissioners reviewed the application of Dale G. Lende for a salesperson license. Commissioner Sheridan moved, seconded by Commissioner Louser to approve Mr. Lende to sit for the real estate examination. M/C

- c. Commissioners reviewed the application of Garrett W. Thomte for a salesperson license. Commissioner Louser moved, seconded by Commissioner Sheridan to approve M. Thomte to sit for the real estate examination. M/C
7. REVIEW REQUEST FOR WAIVER REGARDING BROKER APPLICATION FROM YIN-YAO HUANG. Mr. Huang requested a waiver of the 2 year full time experience as a salesperson so that he could take the broker license examination citing that it was not possible for him to have his salesperson license issued under a broker in his area therefore he could not gain the experience as required. Commissioner Sheridan moved, seconded by Commissioner Cymbaluk to deny Mr. Huang's request for a waiver of the experience as a salesperson. M/C
8. This item was withdrawn by Mr. Robert Willer.
9. REVIEW CORRESPONDENCE FROM JIM DEIBERT REGARDING PRE-LICENSING COURSES IN MINNESOTA. Mr. Deibert was present to discuss his concern regarding reciprocal pre-licensing education with Minnesota. He asked the Commission to accept pre-licensing from another jurisdiction only if it requires a test and provides education on North Dakota license law because Minnesota will only accept pre-licensing from another jurisdiction if there is a test and a segment on Minnesota law. Staff was asked to review our reciprocal agreement with Minnesota, find out how Wisconsin is handling Minnesota's requirements, and see how states surrounding North Dakota handle reciprocity pertaining to pre-licensing education.
10. REVIEW CORRESPONDENCE FROM DAN RINGUETTE REGARDING PERSONAL ASSISTANTS. Mr. Ringuette asked the Commission to change license law to allow unlicensed assistants to show property, host open houses, and work at trade shows. Secretary Treasurer Jergenson stated that ARELLO will be conducting research on the activities allowed for unlicensed assistants in other jurisdictions in October and that she will be able to provide the Commission with the results sometime in November.
11. REVIEW AUDIT REPORTS.
  - a. Trust account auditors informed the Commission that their previous memo stating that Crary Homes & Real Estate, Inc. had more cash in their trust account than liabilities was incorrect when in fact they have \$1050.00 less than the earnest money liabilities. Based on that previous memo Commissioners, at the August 10, 2006 meeting, moved to have Crary Homes & Real Estate, Inc. dispose of the excess funds. Commissioner Youngberg moved, seconded by Commissioner Louser to rescind that motion and request that Crary Homes & Real Estate, Inc. provide verification that they have deposited \$1050.00 in the trust account to cover the shortage. M/C
  - b. Commissioners reviewed the reports on the trust accounts of Watne Realtors in Minot and their branch office in Rugby noting that the audit report on the Minot trust account was from a re-audit. Commissioner Youngberg moved, seconded by Commissioner Sheridan to file a complaint against Clair Watne for trust account violations. M/C
12. UPDATE ON WEBSITE. Secretary Treasurer Jergenson asked Commissioners to provide input on a list for iNet Technologies rating the importance of 10 items as part of the process in developing our website.

13. DISCUSS USING FORM TO PLACE LICENSE ON INACTIVE STATUS. Staff presented a form to be used when a licensee wishes to place their license on inactive status. The use of this form would eliminate possible misunderstanding as to the status of a license, how it will be returned and the licensee's responsibilities while on inactive status. It was the consensus of the Commissioners to put this form in use.
14. DISCUSS POSSIBLE LEGISLATIVE ISSUES. Commissioners discussed possible issues to be brought before the 2007 Legislative session. It was the consensus that these were housekeeping issues. Claus Lembke, NDAR EVP, informed the Commission of the issues NDAR will be looking at for the 2007 session.
15. CONTINUING EDUCATION REQUIREMENTS FOR NEW LICENSEES. Guidelines for 3 possible scenarios new licensees will need to consider when determining if or what continuing education they will need for the 2006/07 continuing education cycle was reviewed prior to distribution.
16. REVIEW REQUESTS FOR TRUST ACCOUNT WAIVERS. Commissioner Sheridan moved, seconded by Commissioner Youngberg to approve the requests for trust account waivers as attached to these minutes. M/C
17. EMAIL REGARDING FEDERAL REGULATION OF REAL ESTATE. Commissioners were provided information about a recent ALQ article.
18. COMMISSION GOALS. The goals the Commission has established for itself were reviewed.
19. OTHER BUSINESS:
  - a. Commissioners received a draft of the revised trust account manual to review for discussion at the next meeting.
  - b. Stoney Winterton of First American Home Buyers Protection Corporation asked to address the Commission. Mr. Winterton expressed the importance of home warranties and he questioned how to go about having information regarding home warranties included on purchase agreements. Commissioners informed Mr. Winterton that North Dakota does not have mandatory forms and he should contact the North Dakota Association of REALTORS® or the local boards.

There being no further business Chair Schlosser adjourned the meeting.

Respectfully submitted,

Patricia M. Jergenson  
Secretary Treasurer