

SOUTH DAKOTA REAL ESTATE COMMISSION
FEBRUARY 2 & 3, 2011
GOVERNOR'S INN
700 WEST SIOUX AVENUE
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:00 p.m. on February 2, 2011, in the Kneip Room of the Governor's Inn, Pierre, SD. Present for the meeting were Chairman Paula Lewis and commission members Dennis Eisnach, Eileen Fischer and Charles Larkin. Also present were legal counsel Lindsey Riter-Rapp, executive director Dee Jones Noordermeer, licensing program administrator Norma Schilling and compliance officer Brian Jackson.

Motion made and seconded to approve the minutes of the December 1 & 2, 2010, meeting. Motion carried.

Motion made and seconded to accept the financial reports for November and December 2010 as presented. Motion carried.

Compliance officer Michelle Metzinger joined the meeting at 1:15 p.m.

The executive director gave an update on license renewals for 2010.

Discussion was held on licensees not in compliance for failing to renew their licenses, complete continuing education or renew their errors and omissions insurance. Discussion was also held on broker responsibility.

The executive director gave an update on the ARELLO Leadership Symposium she attended in Scottsdale, AZ, January 4-7, 2011. She informed the Commission that ARELLO is looking for individuals for the Work Groups.

Motion made and seconded to enter into executive session at 1:42 p.m. to review complaints. Motion carried.

Motion made and seconded to come out of executive session at 3:00 p.m. Motion carried.

Motion made and seconded to file a formal complaint against Joel Willette and dismiss against the brokers in complaint #2011-011. Motion carried.

Motion made and seconded to dismiss complaint #2011-012. Motion carried.

Motion made and seconded to withdraw the prior motion by the Commission to file a formal complaint against Bill Jensen in complaint #2011-006. Motion carried.

Compliance officer Michelle Metzinger left the meeting at 3:15 p.m.

The executive director informed the Commission that she had received a request from the attorney for Paul Vallette requesting a continuance of the formal hearing. Motion made and seconded to extend the hearing until the next meeting. Motion carried.

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The Commission reviewed the Findings of Fact, Conclusions of Law & Proposed Decision of Hillary Brady on Dean Gulbranson. Following discussion, motion made and seconded to accept the Proposed Findings of Fact, Conclusions of Law & Proposed Decision of Hearing officer Hillary Brady, and that Dean Gulbranson complete the following (1) pay a fine of \$1,000 within 30 days of receipt of the final order; (2) reimburse the Commission for costs in the complaint within 30 days of receipt of the final order; and (3) that he complete six hours of education in real estate license law within one year of receipt of the final order, in addition to that continuing education already required under the law. Motion carried.

The Commission reviewed the Findings of Fact, Conclusions of Law & Proposed Decision of Hillary Brady on Raymond Heyer. Following discussion, motion made and seconded to accept the Findings of Fact, Conclusions of Law & Proposed Decision of Hearing Officer Hillary Brandy and that Raymond Heyer be ordered as follows: (1) Mr. Heyer's license be suspended for one year with all but 11 months held in abeyance, with the 30 day suspension to take place within 30 days of receipt of the final order; (2) that he reimburse the Commission for costs in the complaint within 30 days of receipt of the final order; and (3) he complete six hours of education in contracts and six hours of education in real estate license law within one year of receipt of the final order, in addition to that continuing education already required under the law. Motion carried. The record will reflect that commission member Dennis Eisnach read the transcript and participated in the discussion and decision and commission member Eileen Fischer did not participate in the discussion and decision.

Discussion was held on the letter from Bo Hauer and Dave Mortimer requesting reconsideration on the letter of reprimand they received. Following discussion, motion made and seconded to have the executive director write a letter to Mr. Hauer and Mr. Mortimer informing them that the Commission upholds its former action and the letter of reprimand stands. Motion carried.

Legal counsel briefed the Commission on the status of the cases that are on appeal.

Secretary Pam Roberts and Public Affairs Director Dawn Dovre of the Department of Labor joined the Commission at 3:55 p.m. Discussion was held on the attachment of the Real Estate Commission to the Department of Labor. Secretary Roberts and Ms. Dovre left the meeting at 4:25 p.m.

Commission member Larkin left the meeting at 4:30 p.m.

The Executive Director gave an update on legislation involving the Real Estate Commission.

The meeting recessed at 4:55 p.m. and reconvened at 8:30 a.m. on February 3, 2011.

Compliance officer Michelle Metzinger joined the meeting at 8:45 a.m.

Discussion was held on a short sale form. Chairman Lewis will check with a couple of brokers in Rapid City to see if they would be willing to work with the executive director on a short sale form.

Michelle Kleven, Executive Vice President of the South Dakota Association of REALTORS® joined the meeting at 8:50 a.m.

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Discussion was held on a multiple offer form. Motion made and seconded to accept the multiple offer form as modified. Motion carried.

Discussion was held on the home protection plan clause in the purchase agreement as to whether it is in violation of RESPA or whether it could be in violation with the Division of Insurance. The executive director will visit with the Division of Insurance on the legalities of this issue.

Discussion was held with Michelle Kleven of the South Dakota Association of REALTORS® on sellers' concessions.

Ms. Kleven left the meeting at 9:20 a.m.

Motion made and seconded to enter into executive session at 9:28 a.m. to discuss other possible Commission complaints. Motion carried.

Motion made and seconded to come out of executive session at 10:15 a.m. Motion carried.

Motion made and seconded to file a formal complaint against Sharon McGroarty. Motion carried.

Motion made and seconded to file a formal complaint against Martin Jurisch. Motion carried.

Compliance officers Michelle Metzinger and Brian Jackson left the meeting at 10:15 a.m.

Dates were set for future meetings.

The next meeting of the Commission will be held March 15 & 16, 2011, in Pierre.

There being no further business, motion made and seconded to adjourn at 10:35 a.m. Motion carried.

Paula Lewis, Chairman

Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on February 2 & 3, 2011.

Dee Jones Noordermeer, Executive Director