

SOUTH DAKOTA REAL ESTATE COMMISSION  
KNEIP BUILDING  
MARCH 13, 2014  
700 GOVERNORS DR  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 8:00 a.m. on March 13, 2014. Present for the meeting were Chairman Mark Wahlstrom and commission members David Bonde, Matt Krogman and Doug Nelson. Commission member Paula Lewis was not present for the meeting. Also present were executive director Melissa Miller, licensing program administrator Norma Schilling and Department of Labor and Regulation legal counsel Aaron Arnold.

Motion by Nelson, seconded by Krogman, to adjust the agenda to move items 7 & 8 below item 4. Motion carried.

Motion by Nelson, seconded by Krogman, to approve the minutes of the January 8, 2014 meeting. Motion carried.

Motion by Krogman, seconded by Nelson, to approve the financial reports for January & February 2014. Motion carried.

Motion by Nelson, seconded by Krogman, to enter into executive session at 8:07 a.m. pursuant to SDCL 1-25-2(3). Motion carried.

The Commission reconvened to regular session at 9:16 a.m.

In the matter of Jonathan Sweets and Joan Cota, Nelson moved, Krogman seconded to adopt the findings of fact and conclusions of law with the correction in paragraph VIII to change Irene to Canistota and paragraph XIX from RE/MAC to RE/MAX and modify the proposed decisions to the following:

ORDERED that Jonathan Sweets' license, License No.14928, is hereby suspended for a period of one year beginning on the effective date of this Order, with the one year suspension being held in abeyance for a period of two years so long as the following conditions are complied with:

1. Jonathan Sweets shall comply with all laws and regulations relating to his profession under SDCL chapter 36-21A and ARSD article 20:69 for a period of 2 years beginning on the effective date of this Order;
2. Jonathan Sweets shall pay a monetary penalty in the amount of \$2,500.00 to the Commission by June 30, 2014;
3. Jonathan Sweets shall pay for, attend, and successfully complete the following Commission approved education courses in an in-classroom setting:
  - a. Agency – 8 hours;
  - b. Contracts – 8 hours; and
  - c. Ethics – 8 hours.

Mr. Sweets shall submit written proof of completing the required education by November 30, 2014. For purposes of this Order, "in-classroom setting" means a class offered in the traditional classroom setting with the instructor and a body of students present in the same room. The courses may not be distance education offerings. The required course work will

- not count toward Mr. Sweet's continuing education requirement for maintaining his license and cannot be completed at the South Dakota School of Real Estate; and
4. Pursuant to SDCL 1-26-29.1, Jonathan Sweets shall reimburse the Commission for its costs or the administrative hearing in the amount of \$13,516.58 joint and several with Joan Cota by June 30, 2015. The costs are as follows:
    - a. Court reporting services for the hearing, including transcript costs: \$2,613.15;
    - b. Witness fees and mileage for the hearing: \$463.54;
    - c. Attorney travel expenses for deposition and witness questioning: \$713.50
    - d. Handwriting analysis on questionable documents and subsequent deposition of handwriting expert: \$5,211.27;
    - e. Expenses for handwriting expert to appear and testify at the administrative hearing: \$4,011.27; and
    - f. Court reporting costs for the deposition of handwriting expert: \$503.85.

ORDERED that Joan Cota's license, License No.3578, is hereby suspended for a period of one year beginning on the effective date of this Order, with the one year suspension being held in abeyance for a period of two years so long as the following conditions are complied with:

1. Joan Cota shall comply with all laws and regulations relating to his profession under SDCL chapter 36-21A and ARSD article 20:69 for a period of 2 years beginning on the effective date of this Order;
2. Joan Cota shall pay a monetary penalty in the amount of \$2,500.00 to the Commission by June 30, 2014;
3. Joan Cota shall pay for, attend and successfully complete the Commission approved 15 hour Responsible Broker course in an in-classroom setting. Ms. Cota shall submit written proof of completing the required education by June 30, 2014. For purposes of this Order, "in-classroom setting" means a class offered in the traditional classroom setting with the instructor and a body of students present in the same room. The courses may not be distance education offerings. The required course work will not count toward Ms. Cota's continuing education requirement for maintaining her license and cannot be completed at the South Dakota School of Real Estate;
4. Joan Cota shall pay for, attend, and successfully complete the following Commission approved education courses in an in-classroom setting:
  - a. Contracts – 8 hours; and
  - b. Agency – 8 hours.

Ms. Cota shall submit written proof of completing the required education by November 30, 2014. The required course work will not count toward Ms. Cota's continuing education requirement for maintaining her license and cannot be completed at the South Dakota School of Real Estate; and

5. Pursuant to SDCL 1-26-29.1, Joan Cota shall reimburse the Commission for its costs for the administrative hearing in the amount of \$13,516.58 joint and several with Jonathan Sweets by June 30, 2015. The costs are as follows:
  - a. Court reporting services for the hearing, including transcript costs: \$2,613.15;
  - b. Witness fees and mileage for the hearing: \$463.54;
  - c. Attorney travel expenses for deposition and witness questioning: \$713.50
  - d. Handwriting analysis on questionable documents and subsequent deposition of handwriting expert: \$5,211.27;
  - e. Expenses for handwriting expert to appear and testify at the administrative hearing: \$4,011.27; and
  - f. Court reporting costs for the deposition of handwriting expert: \$503.85.

Motion carried.

Compliance officer Michelle Metzinger joined the meeting at 9:19 a.m.

Motion by Nelson, seconded by Bonde, to enter into executive session at 9:20 a.m. pursuant to SDCL 1-25-2(3). Motion carried.

Commission member Krogman left the meeting at 10:32 a.m.

Compliance officer Michelle Metzinger left the meeting at 11:04 a.m.

The Commission reconvened to regular session at 11:13 a.m.

Motion by Nelson, seconded by Bonde, to accept the consent agreement signed by Mark Feichtner to the following:

- a. Mr. Feichtner shall pay an administrative fine in the amount of \$2,000.00 to the Commission by April 30, 2014; and
- b. Mr. Feichtner will pay for, attend, and successfully complete 6 hours of Commission approved continuing education in the area of agency and 15 hour responsible broker course, and provide written evidence of such compliance to the South Dakota Real Estate Commission by September 1, 2014. The required course work will not count toward Mr. Feichtner's continuing education requirement for maintaining his license and cannot be completed at the South Dakota School of Real Estate; and
- c. If Mr. Feichtner fails to comply with 14a or 14b of this agreement, then Mr. Feichtner's license shall be immediately suspended until he has fully complied with those terms of this agreement.

Motion carried.

Motion by Nelson, seconded by Bonde, to proceed to a formal hearing in complaint 2013-069. Motion carried.

Motion by Nelson, seconded by Bonde, to authorize legal counsel to negotiate a consent agreement in complaint 2014-010. Motion carried.

Motion by Nelson, seconded by Bonde, to authorize legal counsel to negotiate a consent agreement in complaint 2014-011. Motion carried.

Motion by Nelson, seconded by Bonde, to authorize legal counsel to negotiate a consent agreement in complaint 2014-012. Motion carried.

Motion by Nelson, seconded by Bonde, to authorize legal counsel to continue to negotiate a consent agreement or Assurance of Voluntary Compliance in complaint 2014-025. Motion carried.

Discussion was held on a transaction that was reviewed by Commission staff. Motion by Nelson, seconded by Bonde, to have the executive director send a letter to the broker regarding the correct usage of contract and agency forms. Motion carried.

Motion by Nelson, seconded by Bonde, to deny the conditional application for applicant No. 1. Motion carried.

Motion by Nelson, seconded by Bonde, to deny the conditional application for applicant No. 2. Motion carried.

Motion by Nelson, seconded by Bonde, to approve the broker association application of applicant No. 3. Motion carried.

Motion by Nelson, seconded by Bonde, to approve the timeshare application of applicant No. 4. Motion carried.

Motion by Bonde, seconded by Nelson, to deny the broker associate application of applicant No. 5 until we have more documentation on payment of judgments. Motion carried.

Motion by Nelson, seconded by Bonde, to deny the residential rental agent application of applicant No. 6. Motion carried.

Motion by Nelson, seconded by Bonde, to approve the residential rental application of applicant No. 7. Motion carried.

Commission member Krogman rejoined the meeting at 11:43 a.m.

Motion by Nelson, seconded by Krogman, to approve the broker associate application of applicant No. 8. Motion carried.

Motion by Nelson, seconded by Bonde, to approve the consent agreements with a penalty of \$100 for each licensee for the list provided at the meeting which includes the violation for the following:

Failure to register a place of business or failure to report a change of location of a business within 10 days of the change (SDCL 36-21A-52);

Erin Halvorson, Sioux Falls, Broker

Failure to maintain errors and omissions insurance or to provide proper notification to the commission of errors and omissions insurance (SDCL 36-21A-119, ARSD 20:69:15:02, 20:69:15:06, 20:69:15:07);

Chuck Mauszycki, Mitchell, Broker Associate  
April Faeth, Watertown, Broker Associate  
Jenny Friday, Sioux Falls, Salesperson  
Joseph Johnson, Sioux Falls, Broker Associate  
Scott Mueller, Rapid City, Broker Associate  
Gregory Garness, Yankton, Broker Associate  
Cameron Young, Sioux Falls, Broker Associate  
Stewart Thill, Sioux Falls, Broker Associate  
Samantha Daniels, Aberdeen, Broker Associate  
Jackie Peterson, Sioux Falls, Broker Associate  
Amy Brown, Deadwood, Broker Associate  
Johnathan Sweets, Sioux Falls, Broker Associate  
Jim Strain, Rapid City, Broker  
Scott Boyd, Sioux Falls, Broker Associate

Ryan Folk, Watertown, Broker Associate  
Laura Hegerfeld, Brookings, Broker Associate  
Owen Wassink, Sioux Falls, Broker Associate  
Penny Story, Sioux Falls, Broker Associate  
Jessi Wilharm, Vermillion, Broker Associate  
Dan O'Hara, Broker, Sioux Falls  
Kim Petit, Sioux Falls, Broker Associate  
Bryan Teachout, Rapid City, Broker Associate  
Stacy West, Mitchell, Broker Associate  
Michael Hauck, Sioux Falls, Broker  
Pat Mahowald, Watertown, Broker  
Gregory Kneip, Sioux Falls, Broker  
Lee Rettig, Yankton, Broker Associate

Performing real estate brokerage activity beyond the month in which a license lapses for non-payment of renewal fees, and/or not filing/completing the required continuing education (SDCL 36-21A-61, 36-21A-62, 36-21A-64);

Raphael Mack, Aberdeen, Broker  
Richard Wieman, Marion, Broker  
Matt, Nagel, Sioux Falls, Property Manager  
Terry Koch, Mitchell, Broker  
Keith Meiers, Avon, Broker Associate  
Aaron Hultgren, Sioux Falls, Broker  
Karen Meyer, Sioux Falls, Broker Associate  
Jennifer Anderson, Sioux Falls, Broker Associate  
David Simpson, Rapid City, Broker Associate  
Stephanie Zomermaand, Sioux Falls, Broker Associate  
Michael Kaitfors, Spearfish, Broker Associate  
Jim Tesch, Watertown, Broker  
Roger Tesch, Watertown, Broker Associate  
Dan Clark, Winner, Broker Associate/Auctioneer  
Amy Miller, Sioux Falls, Property Manager  
Wymann Wild, Chadron NE, Broker  
Rick Huber, Alcester, Home Inspector  
Keith Runquist, Rapid City, Home Inspector  
Terry Bornitz, Sioux Falls, Broker Associate  
Shirley Dukart, Dickenson ND, Broker Associate

Motion carried.

Motion by Nelson, seconded by Krogman, to accept the Assurance of Voluntary Compliance for Norm Haan to the following:

- A. Mr. Haan will pay for, attend, and successfully complete the 15 hour Responsible Broker course. Mr. Haan will provide written evidence of such compliance to the South Dakota Real Estate Commission by October 1, 2014. The required course work will not count toward Mr. Haan's continuing education requirement for maintaining his license and cannot be completed at the South Dakota School of Real Estate; and
- B. If Mr. Haan fails to comply with paragraph 9a of this Assurance, Mr. Haan's license shall be immediately suspended until he has fully complied with paragraph 9a.

Motion carried.

The executive director updated the Commission on the survey that was sent to the licensees regarding the caravan. An article will be in the Commission newsletter regarding the results of the survey.

Motion by Nelson, seconded by Krogman, to approve the final recommendations from the post-licensing education committee regarding the changes to the post-licensing education requirements for new applicants and the responsible broker requirements. Motion carried.

Compliance officer Brian Jackson joined the meeting telephonically at 12:20 p.m.

Discussion was held on the revision of the forms. Legal counsel will review and revise the forms for compliance and report back to the Commission.

Compliance officer Brian Jackson left the meeting at 1:28 p.m.

Discussion was held on how firms advertise their name and if changes need to be made in the advertising laws.

Discussion was held on using emails in a real estate transaction and electronic signatures.

The next regular meeting of the Commission will be held May 21 & 22, 2014 in Pierre.

There being no further business the meeting adjourned at 1:52 p.m.

Minutes submitted by Norma Schilling

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Mark Wahlstrom, Chairman

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Melissa Miller, Executive Director