

SOUTH DAKOTA REAL ESTATE COMMISSION
JUNE 24 & 25, 2010
CAPITOL LAKE PLAZA
711 EAST WELLS AVE
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 8:35 a.m. on June 24, 2010 in Suite 240 of the Capitol Lake Plaza, Pierre, SD. Present for the meeting were Chairman Dennis Eismach and commission members Brian Jackson and Charles Larkin. Commission members Eileen Fischer and Paula Lewis were not present for the meeting. Also present were legal counsel Robert Riter, executive director Dee Jones Noordermeer and licensing program administrator Norma Schilling.

The minutes of the May 12 & 13, 2010 meeting stood approved as written.

The agenda stood approved as printed.

The financial report for May 2010 was accepted as submitted.

The Commission reviewed the proposed FY2011 budget. Following discussion, motion made and seconded to adopt the proposed FY 2011 budget. Motion carried.

Motion made and seconded to enter into executive session at 9:05 a.m. to review complaints. Motion carried.

Motion made and seconded to come out of executive session at 9:45 a.m. Motion carried.

Complaint #2010-015, motion made and seconded to dismiss. Motion carried.

Complaint #2010-017, motion made and seconded to dismiss. Motion carried.

Complaint #2010-018, motion made and seconded to move to a formal hearing. Motion carried.

Complaint #2010-020, motion made and seconded to dismiss with a letter to the broker. Motion carried.

The executive director informed the Commission of a broker associate who is acting as the responsible broker of an office due to the death of the responsible broker. The broker associate has failed to comply with the executive director's request to have passed the broker exam by May 1, 2010. Motion made and seconded to have the executive director advise the broker associate to provide proof to the executive director of having passed the exam by July 14, 2010 or rectify the matter in another manner; if the broker associate fails to comply, the Commission will file a formal complaint to be heard at the August 18 & 19, 2010 meeting. Motion carried.

Michelle Kleven, the executive vice-president of the South Dakota Association of REALTORS, Tom Souvignier and Chuck Sutton joined the meeting at 10:00 a.m.

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Michelle Kleven on behalf of the South Dakota Association of REALTORS, asked the Commission to consider a request to change the agreement to mediate in the purchase agreement form. Following discussion, motion made and seconded to approve the change to the mediation agreement in the purchase agreement as presented by the South Dakota Association of REALTORS. Motion carried.

The executive director gave an update on the auctioneer forms as presented at the Auctioneer's Convention. Discussion was held on the auctioneer forms and possible changes to be made to the forms. An auctioneer's task force meeting will be held to review the proposed changes.

The executive director informed the Commission that she will be submitting proposed legislation on changing "public outcry" to "public offering", executive sessions, unlicensed individuals and change in firm licensing requirements. Proposed rules will include the addition of consent orders in disciplinary action and inactive nonresidents will need to provide a certification of licensure prior to activating their license.

Michelle Kleven, with the South Dakota Association of REALTORS informed the Commission that the South Dakota Association of REALTORS will be submitting legislation to prohibit private transfer fees and requiring a seller's disclosure on bare land.

Michelle Kleven, Tom Souvignier and Chuck Sutton left the meeting at 11:45 a.m.

The Commission recessed for lunch at 11:50 a.m. and reconvened at 1:10 p.m.

Hearing Examiner Hillary Brady at 1:12 p.m. convened the formal hearing on complaint #2008-013, SDREC vs. Cheri St. Pierre. Present for the hearing in addition to the commission members were legal counsel Robert Riter, executive director Dee Jones Noordermeer, licensing program administrator Norma Schilling, court report Cheri Wittler, Michelle Metzinger, defendant's attorney Ken Barker and defendant Cheri St. Pierre. Testimony was heard from Matt Konenkamp. Michelle Metzinger left the hearing at 3:45 p.m. The hearing recessed at 4:05 p.m. to hold the formal hearing scheduled for 4:00 p.m.

Hearing Examiner Hillary Brady at 4:15 p.m. convened the formal hearing on complaint #2008-023, SDREC vs. Douglas Andrews. Present for the hearing in addition to the commission members were legal counsel Robert Riter, executive director Dee Jones Noordermeer, licensing program administrator Norma Schilling court reporter Cheri Wittler, defendant Douglas Andrews and his wife Lori Andrews. The hearing closed at 4:40 p.m.

Hearing Examiner Hillary Brady at 4:45 p.m. reconvened the formal hearing on complaint #2008-013, SDREC vs. Cheri St. Pierre. Testimony was heard from Carolyn Agate, Rachel Stroud, Lisa Mueller, Dee Jones Noordermeer, Cheri St. Pierre and Robert Pagan. The hearing closed at 8:48 p.m.

The Commission recessed at 8:50 p.m. and reconvened at 8:30 a.m. on June 25, 2010.

Discussion was held with legal counsel on informal consultations.

Licensing program administrator Norma Schilling gave an update on the REEA Conference that she attended in San Antonio, TX.

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The executive director informed the Commission on the ARELLO Investigator Workshop to be held in Denver, CO August 2-5, 2010. Motion made and seconded to submit a request for the attendance of the two compliance officers at the ARELLO Investigator Workshop. Motion carried.

Discussion was held on the ARELLO Annual Conference to be held in Anchorage, AK September 16-18, 2010. Motion made and seconded to submit a request for the attendance of the executive director and 2 commission members with only the registration fee being paid by the commission. Motion carried. If this request is not approved then a motion was made and seconded to submit a request for the attendance of the executive director and 2 commission members to attend with all expenses to be paid by the attendees. Motion carried.

Motion made and seconded to enter into executive session at 9:09 a.m. for an informal consultation. Motion carried.

Motion made and seconded to come out of executive session at 10:05 a.m. Motion carried.

Following the informal consultation, a motion was made and seconded to dismiss complaint #2010-013. Motion carried.

Motion made and seconded to enter into executive session at 10:10 a.m. for an informal consultation. Motion carried.

Motion made and seconded to come out of executive session at 10:30 a.m. Motion carried.

No action was taken against the licensee in the informal consultation.

The executive director informed the Commission that she had received a request from an attorney on behalf of Tobin Karn, a former licensee whose license had been revoked, to pay the penalty imposed in installments. Following discussion, motion made and seconded to give the executive director authority to make payment arrangements when these requests are made. Motion carried.

The Commission reviewed the Findings of Fact, Conclusions of Law and Proposed Decision of Hearing Examiner Hillary Brady on Douglas Groves. Motion made and seconded to amend the proposed decision that Douglas Groves pay a penalty of \$1,000, reimburse the Commission for his costs in the complaint and that he complete the 15 hour responsible broker course within 1 year in a classroom setting with these hours being in addition to the 24 hours of continuing education required. The penalty and costs are to be paid within 30 days of receipt of the order. Motion carried.

Discussion was held on the election of officers. Motion made to elect Paula Lewis as chairman. Motion died for lack of a second. Election of officers will be held at the beginning of the August 18 & 19, 2010 meeting when all the Commission members are present.

The executive director informed the Commission that Merlyn Grave has failed to comply with the order issued by the Commission to complete his previous Stipulation and Assurance of Voluntary Compliance and she will have legal counsel prepare documentation confirming the revocation of his license for noncompliance.

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The executive director updated the Commission on revoked licensee Scott Lloyd who was recently indicted on grand theft charges.

The executive director informed the Commission that she had received notices from Jerry Youngberg from North Dakota and Leon Lewis from the District of Columbia asking for the Commission's support in their running for Treasurer of ARELLO. No action was taken at this time.

Legal counsel informed the Commission that he had a request from John Nooney, attorney for Martin Jurisch, to depose the original complainant in the complaint 2010-014, SDREC vs. Martin Jurisch. The Commission agreed to legal counsel being present for the deposition to be held in person or telephonically.

Discussion was held on the protocol for formal hearings. Following discussion, legal counsel will do further research as to the protocol for formal hearings.

The next meeting of the Commission will be held August 18 & 19, 2010 in Pierre.

There being no further business, motion made and seconded to adjourn at 11:40 a.m. Motion carried.

Dennis Eisnach, 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 June 24 & 25, 2010.

Dee Jones Noordermeer, Executive Director