

**Meeting Minutes**  
**SOUTH DAKOTA REAL ESTATE COMMISSION**  
127 West Missouri Ave., Pierre, SD 57501  
November 9, 2022, 9:00 a.m. CST  
Via [Teams](#)  
Or call 1.605.679.7263 Meeting ID: 878872700#

Vice Chairman Carol Lawhun called the meeting to order at 9:32 a.m. A quorum was present.

**Members Present:** Dave Bonde  
Carol Lawhun  
Ryan Wordeman  
Mark Wahlstrom

**Member Absent:** Ryan Wordeman

**Others Present:** Melissa Miller, Executive Director, SDREC, Tim Bond, Compliance Officer, SDREC, Michelle Metzinger, Compliance Officer, SDREC  
Jerry McCabe, Staff Attorney, SD Department of Labor

Wahlstrom made a motion to approve the agenda. Bonde seconded the motion. Lawhun called for a vote. **MOTION PASSED.**

Public Comment – No comments were made by the public.

Wahlstrom made a motion to approve the September 13 and October 13, 2022, meeting minutes. Bonde seconded the motion. Lawhun called for a vote. **MOTION PASSED.**

Cotton joined the meeting at 9:35 a.m.

Summary of the financials for September and October was presented by Director Miller. Bonde made a motion to acknowledge receipt of the September and October financials and to file. Wahlstrom seconded the motion. Cotton called for a vote. **MOTION PASSED.**

Miller gave an update that the proposed rule changes have been completed and approved. The property management subject area rule changes will be effective on Monday, November 28. The responsible broker course rule changes and subject areas will be effective on January 1, 2023. All the educators have been notified.

2023 meeting dates were presented.

Next meeting is on January 4, 2022.

Wahlstrom made a motion to adjourn. Lawhun seconded the motion. **MOTION PASSED.**  
Meeting adjourned at 9:44 a.m.

SDREGD2 12/23/2022

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STATE OF SOUTH DAKOTA  
DAILY PAYMENT REGISTER - COMBINED  
FOR PAYMENTS MADE ON: 12/23/2022

AGENCY: 10 LABOR & REGULATION  
BUDGET UNIT: 1037 REAL ESTATE COMMISSION - INFO

INVOICE NUMBER	INVOICE DATE	APPROVAL NUMBER	PAYMENT DATE	PAYMENT NUMBER	PAY ENT	VENDOR NUMBER	VENDOR GROUP	VENDOR NAME	EXPENSE EFFECT DATE	PAYMENT AMOUNT	ACH IND
231012	JUL-JUN23	07/19/2022	014757	12/23/2022	0100828228	1001	12603302	DOING IT RIGHT	12/19/2022	549.55	
WMISSOURIRENT23	07/22/2022	018675	12/23/2022	0100828248	1001	12676178	COYLE PROPRTIE	12/22/2022	4,971.35		
* BUDGET UNIT TOTALS:											
			INVOICES	2	ACH	0				5,520.90	*

AGENCY: 10 LABOR & REGULATION  
BUDGET UNIT: 1037 REAL ESTATE COMMISSION - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	1037000699BA	1140000	28,468.12	CR	REAL ESTATE/COSMO/BARBER
6503	103700069901	1140000	583,562.53	DR	REAL ESTATE COMMISSION
6503	103700069902	1140000	100,883.51	DR	REAL ESTATE COMM RECOVERY FUND
COMPANY/SOURCE TOTAL 6503 699			655,977.92	DR *	
COMP/BUDG UNIT TOTAL 6503 1037			655,977.92	DR **	
BUDGET UNIT TOTAL 1037			655,977.92	DR ***	

BA20JH61

AVAILABLE FUNDS AS OF: 11/30/2022  
FY YEAR REMAINING: 58.4%  
PAY DAYS REMAINING: 14  
MONTHLY  
PAGE 200  
DATE 12/03/2022

CENTER NAME	REAL ESTATE COMMISSION - INFO	COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE
BUDGET UNIT 1037		6503-I	660,348.00	0.00	0.00	24,040.42	162,019.38	474,288.20	684,446.04
BUDGETED TOT			660,348.00	0.00	0.00	24,040.42	162,019.38	474,288.20	
ALL COMP TOT			660,348.00	0.00	0.00	24,040.42	162,019.38	474,288.20	

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE APPROPRIATIONS	BUDGET AVAILABLE	PCT AVL
5101 EMPLOYEE SALARIES	327,506.00	0.00	0.00	19,260.51	93,325.45	234,180.55	71.5
5102 EMPLOYEE BENEFITS	95,015.00	0.00	0.00	5,918.07	28,646.52	66,368.48	69.9
5203 TRAVEL	40,407.00	0.00	0.00	0.00	3,664.71	36,742.29	90.9
5204 CONTRACTUAL SVCS	168,605.00	0.00	24,040.42	8,517.02	31,000.07	113,564.51	67.4
5205 SUPPLIES & MATRIS	26,500.00	0.00	0.00	478.74	4,767.12	21,732.88	82.0
5207 CAPITAL OUTLAY	2,315.00	0.00	0.00	0.00	428.66	1,886.34	81.5
5208 OTHER	0.00	0.00	0.00	0.00	186.85	186.85-	0.0
TOTALS	660,348.00	0.00	24,040.42	34,174.34	162,019.38	474,288.20	71.8

BREAKOUT BY COMPANY:

COMPANY	6503-I PROFESSIONAL & LICENSING BOARDS	TOT
5101000 EMPLOYEE SALARIES	327,506.00	327,506.00
5102000 EMPLOYEE BENEFITS	95,015.00	95,015.00
5203000 TRAVEL	40,407.00	40,407.00
5204000 CONTRACTUAL SVCS	168,605.00	168,605.00
5205000 SUPPLIES & MATRIS	26,500.00	26,500.00
5207000 CAPITAL OUTLAY	2,315.00	2,315.00
5208000 OTHER	0.00	0.00
PS SUBTOTALS	422,521.00	422,521.00
OE SUBTOTALS	237,827.00	237,827.00
COMPANY 6503-I	660,348.00	660,348.00

STATE OF SOUTH DAKOTA  
 REVENUE SUMMARY BY BUDGET UNIT  
 FOR PERIOD ENDING: 11/30/2022

AGENCY BUDGET UNIT	10 1037	LABOR & REGULATION REAL ESTATE COMMISSION - INFO					
CENTER	COMPANY NO	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
	103700069901	6503	PROFESSIONAL & LICENSING BOARDS				
	103700069901	6503	4293700	RESIDENT RENTAL AGENTS	720.00	1,980.00	
	103700069901	6503	4293702	BROKER	3,375.00	26,325.00	
	103700069901	6503	4293703	HOME INSPECTORS	.00	200.00	
	103700069901	6503	4293704	PROPERTY MANAGER	1,350.00	4,275.00	
	103700069901	6503	4293705	SALES AGENTS	.00	2,250.00	
	103700069901	6503	4293707	FIRMS	2,200.00	7,025.00	
	103700069901	6503	4293708	CONDOMINIUMS	.00	550.00	
	103700069901	6503	4293710	TIMESHARE PROJECTS	.00	5,350.00	
	103700069901	6503	4293711	EDUCATIONAL COURSES	1,820.00	7,040.00	
	103700069901	6503	4293712	ADDITIONAL LICENSES	450.00	1,320.00	
	103700069901	6503	4293713	CHANGE OF ADDRESS	1,545.00	3,810.00	
	103700069901	6503	4293714	CERTIFICATES OF LICENSURE	660.00	1,560.00	
	103700069901	6503	4293715	LATE RENEWAL FEES	.00	700.00	
	103700069901	6503	4293717	RENEWAL RES RENTAL AGENTS	1,650.00	1,650.00	
	103700069901	6503	4293718	RENEWAL AUCTIONEER	875.00	1,000.00	
	103700069901	6503	4293719	RENEWAL BROKER	83,000.00	83,375.00	
	103700069901	6503	4293720	HOME INSPECTION RENEWAL	2,100.00	2,100.00	
	103700069901	6503	4293721	RENEWAL PROPERTY MANAGER	5,875.00	5,875.00	
	103700069901	6503	4293722	RENEWAL SALES AGENTS	7,125.00	7,250.00	
	103700069901	6503	4293724	RENEWAL FIRMS	23,645.00	23,645.00	
	103700069901	6503	4293725	RENEWAL TIMESHARE PROJECT	250.00	250.00	
	103700069901	6503	4293726	RENEWAL ADDITIONAL LICENS	1,950.00	1,950.00	
ACCT: 4293				BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	138,590.00	189,480.00	*
ACCT: 42				LICENSES, PERMITS & FEES	138,590.00	189,480.00	**

STATE OF SOUTH DAKOTA  
 REVENUE SUMMARY BY BUDGET UNIT  
 FOR PERIOD ENDING: 11/30/2022

AGENCY BUDGET UNIT	10 1037	LABOR & REGULATION REAL ESTATE COMMISSION - INFO				
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
103700069901	6503	4393003	MISC FINES & PENALTIES	.00	129.04	
ACCT: 4393			PENALTIES (NON-GOVERNMENTAL)	.00	129.04	*
ACCT: 43			FINES, FORFEITS & PENALTIES	.00	129.04	**
103700069901	6503	4596002	LICENSE LAW BOOKS SOLD	.00	250.00	
103700069901	6503	4596003	DIRECTORIES/HOME BUYER GU	260.00	4,420.00	
ACCT: 4596				260.00	4,670.00	*
ACCT: 45			CHARGES FOR SALES & SERVICES	260.00	4,670.00	**
103700069901	6503	4920045	NONOPERATING REVENUES	.00	3,903.38	
ACCT: 4920			NONOPERATING REVENUE	.00	3,903.38	*
ACCT: 49			OTHER REVENUE	.00	3,903.38	**
CNTR: 103700069901				138,850.00	198,182.42	***
103700069902	6503	4920045	NONOPERATING REVENUES	.00	883.51	
ACCT: 4920			NONOPERATING REVENUE	.00	883.51	*
ACCT: 49			OTHER REVENUE	.00	883.51	**
CNTR: 103700069902				.00	883.51	***
COMP: 6503				138,850.00	199,065.93	****
B UNIT: 1037				138,850.00	199,065.93	*****

**Revenue Report Ending 11/30/22**

(Additional Report)

<b>Description</b>	<b>Budgeted</b>	<b>Current</b>	<b>Rev. to be Rec</b>	<b>YTD</b>	<b>PCT Rec.</b>
Residential Rental Agents	3,000	720	1,020	1,980	66
Broker	62,000	3,375	35,675	26,325	42
Home Inspectors	4,000	0	3,800	200	05
Property Manager	9,000	1,350	4,725	4,275	47
Sales Agents	6,000	0	3,750	2,250	37
Firms	12,000	2,200	4,975	7,025	58
Condominiums	17,000	0	16,450	550	03
Timeshare Projects	5,000	0	(350)	5,350	107
Educational Courses	15,000	1,820	7,960	7,040	46
Additional Licenses	3,000	450	1,680	1,320	44
Change of Address	9,000	1,545	5,190	3,810	42
Certificate of Licensure	4,000	660	2,440	1,560	39
Late Renewal Fees	20,000	0	19,300	700	03
Renewal Res Rental Agents	3,500	1,650	1,850	1,650	47
Renewal Auctioneer	3,000	875	2,000	1,000	33
Renewal Broker	185,000	83,000	101,625	83,375	45
Home Inspection Renewal	6,000	2,100	3,900	2,100	35
Renewal Property Manager	12,000	5,875	6,125	5,875	48
Renewal Sales Agents	14,000	7,125	6,750	7,250	51
Renewal Timeshare Agents	500	0	500	0	
Renewal Firms	45,000	23,645	21,355	23,645	52
Renewal Timeshare Project	6,500	250	6,250	250	3
Renewal Additional Licenses	3,500	1,950	1,550	1,950	55
Misc. Fines, Penalties and NO Rev	25,000	0	20,084.07	4,915.93	19
Interest Earned					
License Law Books Sold	2,000	0	1,750	250	12
Directories/Lists Sold	10,000	260	5,580	4,420	44
	485,000	138,850	286,084.07 (350)	199,065.93	41

6B

Rec. 1000  
#10008

RECEIVED  
DEC 05 2022  
SD REAL ESTATE  
COMM

STATE OF SOUTH DAKOTA  
DEPARTMENT OF LABOR AND REGULATION  
REAL ESTATE COMMISSION

In the Matter of:

**CONSENT AGREEMENT**

Shannon Brinker, Licensee.

License No. 17047.

Case No. 2022-082

In consideration of the above-captioned matter and as the full and final resolution of this matter, the undersigned parties do hereby consent and agree to the following:

1. The South Dakota Department of Labor and Regulation, Real Estate Commission (Commission) has jurisdiction over this matter pursuant to SDCL Chapters 36-1C and 36-21A.
2. SDCL 36-21A-130 requires any "agency agreement in which a broker represents a seller or lessor shall be in writing and shall contain the proper legal description, the price and terms, the date of authorization, the expiration date, the type of agency relationship established, compensation to be paid, authorization to cooperate with or compensate other brokers, and the signatures of all parties."
3. ARSD 20:69:14:06 requires that before "a property manager performs any services, the property manager and client must enter into a written management agreement specifying the duties and conditions under which the property manager is to perform services."
4. ARSD 20:69:14:02 requires persons acting as property managers to either be licensed by the Commission or otherwise comply "with the provisions of" ARSD Chapter 20:69:14.



5. The definition of unprofessional conduct for licensees includes under SDCL 36-21A-71(1) the violation of “any provisions of this chapter or any rule promulgated by the commission”.
6. SDCL 36-21-68 authorizes the Commission to impose discipline upon licensees found to have committed unprofessional conduct, including revocation of the license or “suspension, reprimand, or a monetary penalty not to exceed two thousand five hundred dollars, or a combination of revocation, suspension, reprimand or monetary penalty”.
7. Shannon Brinker (Licensee) is a licensed broker with the Commission and has been since August 2019. Licensee was previously licensed as a broker associate from July 2017 to August 2019.
8. In February 2020, Licensee opened a firm named “True North Property Management”. Licensee was the responsible broker for that firm.
9. In May 2021, Licensee began acting as an agent for her business partner David Seiden (Seiden) by managing property for him. This included collecting rent, maintaining security deposit trust accounts, entering into lease agreements on Seiden’s behalf, and compiling property management financial statements for Seiden’s rental units.
10. Licensee did not establish her agency relationship with Seiden in any contract, agreement, or other written document.
11. In June 2022, Seiden discontinued property management services with Licensee.

12. The above-described conduct constitutes proof of unprofessional conduct under SDCL 36-21A-71(1) (with reference to SDCL 36-21A-130 and ARSD 20:69:14:06) and is a basis for discipline under SDCL 36-21A-68.
13. Licensee agrees that the violations described in this Consent Agreement are true and accurate and admits to engaging in unprofessional conduct under SDCL 36-21A-71(1).
14. Licensee agrees, in lieu of further contesting this matter, that her license shall be suspended for one-year, stayed upon the following conditions:
  - a. Licensee shall pay an administrative fine of \$1,000 which must be received by the Commission office no later than January 1, 2023;
  - b. Licensee shall successfully complete six additional hours of continuing education in courses approved by the Commission. Three of the six hours must cover the topic of agency and the remaining three must cover the topic of contracts. These six hours shall be in addition to and shall not count toward Licensee's regular continuing education requirements for maintaining her license. Licensee shall provide proof of completion for the courses to the Commission office no later than March 1, 2023.
15. If Licensee fails to comply with any of the conditions of the stayed suspension, Licensee agrees that any such violation would constitute grounds for revocation of the stay.
16. If Licensee fails to comply with any of the terms of this Consent Agreement, Licensee agrees that any such violation would constitute new grounds for further discipline.

17. Upon Licensee's successful completion of the above-listed terms of the stayed suspension, the Commission shall certify compliance with this Consent Agreement to Licensee in writing and Commission shall close this case.
18. Licensee is aware that she may choose to be represented by legal counsel in this matter and is waiving that right.
19. Licensee is aware of and understands the nature of this matter and has been informed of his right to counsel, notice, hearing, and appeal, and that by agreeing to and signing this Consent Agreement, Licensee waives all procedures and proceedings before the Commission to which he may be entitled under state or federal law.
20. Licensee understands that by entering into this Consent Agreement, the Commission is making a finding that Licensee engaged in unprofessional conduct under SDCL 36-21A-71(1). In addition, Licensee understands that by entering into this Agreement, the Commission is taking formal disciplinary action against Licensee.
21. Licensee understands that the terms of this Consent Agreement will be public, which includes publishing a summary of the action taken in the Commission's newsletter.
22. Licensee understands that nothing in this Consent Agreement will be deemed to restrict the Commission from raising facts in reference to Licensee outside of those set forth in this Consent Agreement, if there are other material facts related to the matters under investigation that have not been set forth or disclosed herein.

23. Licensee consents, agrees, and acknowledges that this Consent Agreement must be submitted to the Commission for acceptance or rejection. In the event the Commission rejects the recommendations for resolution by Consent Agreement, Licensee waives any right to claim prejudice or to request recusal of any commission member by reason of any factual basis submitted to the Board in an effort to resolve this matter by Consent Agreement rather than by formal proceeding.
24. Licensee understands that this Consent Agreement may be considered in any future licensing procedures with the Commission and for the purposes of determining the appropriate sanctions in any future actions by the Commission for any violations of laws or regulations of the State of South Dakota or for failing to abide by any order of the Commission.
25. Licensee has read, understands, and agrees to this Consent Agreement and is freely and voluntarily signing it. This Consent Agreement contains the entire agreement between the parties relating to the matters referenced in the Consent Agreement. Licensee is not relying on any other representations of any kind, verbal or otherwise.
26. Licensee agrees to waive any rights and procedures afforded her under SDCL Chapters 1-26, 36-21A, 36-1C, and ARSD Article 20:69.
27. If this Consent Agreement is approved by the Commission, a copy of the executed Consent Agreement will be served by first class mail on Licensee by mailing a copy to her address at 523 Main St, Rapid City, SD 57701.

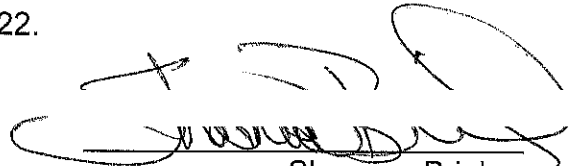
Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

South Dakota Department of Labor and Regulation  
Real Estate Commission

\_\_\_\_\_  
Kenneth Cotton  
Commission Chair

I have read and understand the terms of this Consent Agreement and I understand that I am waiving my due process rights and my right to a hearing. I am voluntarily entering into this agreement.

Dated this 24<sup>th</sup> day of November 2022.

  
Shannon Brinker  
Licensee

66  
RECEIPT #5  
CK# 6425  
\$100

South Dakota Department of Labor and Regulation  
South Dakota Real Estate Commission  
217 West Missouri Ave  
Pierre, SD 57501

2022-083  
09/21/22

<b>In the Matter of:</b>	)	Case No.: 2022-083
	)	
John C Fischer,	)	COMPLAINT & CONSENT AGREEMENT
	)	
License No. 4451	)	
	)	
Respondent	)	

Pursuant to SDCL 36-21A-89(5), SDCL 36-1C-2 and SDCL 36-1C-3, Melissa Miller, the Executive Director of the South Dakota Real Estate Commission, has filed an official complaint, Case #2022-083 against John C Fischer (Respondent), License No. 4451, on September 21, 2022. Respondent's registered firm address with the Commission is 239 Haywire Ave, Long Lake, SD, 57457. Ms. Miller is located at 217 W. Missouri Ave, Pierre, SD 57501. Pursuant to SDCL 36-1C-3, Respondent has 20 days after the date of service of said Complaint to file an original Answer, and 8 copies of said answer, to the official complaint. Service of said Answer shall be made upon the Executive Director of the Real Estate Commission and shall conform with the requirements of SDCL 36-1C-3.

**Statutes and Rules alleged to have been violated:**

**SDCL 36-21A-71. Acts constituting unprofessional conduct.**

Unprofessional conduct includes the following:

1. Violating any provisions of this chapter or any rule promulgated by the commission,

**36-21A-82. Deposit slip and ledger sheet for special trust account--Records maintained--Notice to commission as to financial institution and name of account.**

2. John Fischer is the responsible broker (broker) of Charles J Fischer Agency. Fischer has been a licensee of the commission since August 5, 1983.
3. On August 24, 2022, a certified letter was sent to Fischer requesting audit documentation. The certified letter indicates the audit information due date of September 6, 2022.
4. Fischer contacted our office by phone indicating the audit documentation would be delivered to the South Dakota Real Estate Commission office.
5. As of the date of this complaint the Respondent has failed to provide a trust account reconciliation as requested by the Commission.

I declare and affirm under the penalties of perjury that this complaint has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.

Dated this 21 day of September, 2022


  
\_\_\_\_\_  
Melissa Miller, Executive Director  
South Dakota Real Estate Commission

In the alternative to answering the complaint and to expedite a settlement to this matter, the Commission has proposed to resolve this Complaint by a Consent Agreement. The undersigned parties do hereby consent and agree to the following:

1. The above described conduct constitutes ground for disciplinary action against Respondent in South Dakota pursuant to SDCL 36-21A-71(1), SDCL 36-21A-80, and SDCL 36-21A-82.

8. If Respondent fails to accept the Commission's offer of a Consent Agreement within 15 days of receipt of said offer or, upon acceptance of the Commission's offer, Respondent fails to comply with the conditions of this Consent Agreement, the Commission will proceed with formal disciplinary actions based upon this Complaint.

Dated this 13 day of October, 2022

  
\_\_\_\_\_  
John C Fischer, Respondent

Dated this \_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Chairperson  
South Dakota Real Estate Commission