

Meeting Minutes
South Dakota Real Estate Commission
Telephonic Meeting
May 10th, 2017 9:00 a.m. CDT

Chairman Ryan Wordeman called the meeting to order at 9:10 a.m. A quorum was participating.

Members Participating: Ryan Wordeman
David Bonde
Mark Wahlstrom
Ken Cotton
Matt Krogman

Members Absent:

Others Participating: Melissa Miller, Executive Director, SDREC
Brian Jackson, Compliance Officer, SDREC
Michelle Metzinger, Compliance Officer, SDREC
Stephanie Howard, Licensing Program Administrator, SDREC
Graham Oey, Staff Attorney, South Dakota Department of Labor
and Regulation

Wordeman asked for a motion to approve the agenda as presented. Cotton made a motion to approve the agenda. Wahlstrom seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Mark Wahlstrom requested that a correction be made to the March 23rd minutes on page three in regards to whom seconded his motion for complaint 2017-096.

Wahlstrom made a motion to approve the March 23rd, 2017 meeting minutes with the correction. Bonde seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Summary of the financials for March and April 2017 was presented by Director Miller. Krogman made a motion to approve financial reports. Cotton seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Discussion was held regarding the consent agreements. The agreements were mailed to the respondents for their review and acceptance or rejection. The approval is for respondents who had accepted the agreement by signing and returning them to the Executive Director. Wahlstrom made a motion to approve the consent agreement 2017-102. Cotton seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Wahlstrom motion to table consent agreement 2017-100. Krogman seconded the motion. . Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Discussion was held regarding pending application. Bone made a motion to table application until next commission meeting. Krogman seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Michelle Metzinger, Compliance Officer with the SDREC, entered the meeting at 10:00 a.m.

Complaint 2017-002: Hofer vs Reginald Kleinsasser/The Real Estate Connection, Huron, SD and Adam Rathjen/Rathjen Home Inspections, Huron, SD.

Bonde made a motion to dismiss consent agreement 2017-002 with Rathjen. Cotton seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Complaint 2017-007: Harlan vs David Shelton/Century 21 Advantage, Sioux Falls, SD.

Bonde made a motion to table complaint 2017-007 until the next Commission meeting. Krogman seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Complaint 2017-008: Beebe vs Craig Fields/Hegg Realtors, Sioux Falls, SD and James Rezac/Hegg Realtors, Sioux Falls, SD.

Cotton made a motion to dismiss consent agreement 2017-008 with Rezac. Second by Krogman. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Discussion was held regarding the complaint review process and use of an investigative committee. It was decided that Graham Oey would make accepted changes to the complaint process.

Wahlstrom made a motion to approve these changes. Bonde seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Law 36-21A-79 was present by Melissa Miller Executive Director to be added to the Citation Program.

Cotton made a motion to approve this addition. Krogman seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Under team discussion the commission discussed HB 1078 which had been offered during the 2017 South Dakota Legislative session. Advertisement and team leader issues were the main topics.

Bonde made a motion for Ken Cotton to replace Ryan Wordeman as Chairman. Krogman seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

Krogman made a motion for Mark Wahlstrom to replace Ken Cotton as Vice Chairman. Bonde seconded the motion. Wordeman called the roll. **MOTION PASSED** by unanimous vote.

The commission and committee recognizes and appreciates the wonderful job Ryan Wordeman served as Chairman of the Commission.

Director Miller informed the Commission of the ARELLO Investigator Workshop meeting (October 17-19) / Annual Conference (September 20 – 24).

Wahlstrom made a motion to approve these meetings. Krogman seconded the motion.
Wordeman called the roll. **MOTION PASSED** by unanimous vote.

The next meeting will be scheduled for July 12th, 2017.

Bonde made a motion to adjourn the meeting at 11:00 a.m. Wahlstrom seconded the motion.
Wordeman called the roll. **MOTION PASSED** by unanimous vote.

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

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	103700069901	1140000	299,405.60	DR	REAL ESTATE COMMISSION
6503	103700069902	1140000	100,000.00	DR	REAL ESTATE COMM RECOVERY FUND
COMPANY/SOURCE TOTAL 6503 699			399,405.60	DR *	
COMP/BUDG UNIT TOTAL 6503 1037			399,405.60	DR **	
BUDGET UNIT TOTAL 1037			399,405.60	DR ***	

BUDGET UNIT 1037

CENTER NAME	REAL ESTATE COMMISSION	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE
6503-I	579,988.00	0.00	0.00	0.00	61,712.47	416,175.52	102,100.01	399,405.60
BUDGETED TOT	579,988.00	0.00	0.00	0.00	61,712.47	416,175.52	102,100.01	
ALL COMP TOT	579,988.00	0.00	0.00	0.00	61,712.47	416,175.52	102,100.01	

TOTAL BUDGETED :

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE	BUDGET AVAILABLE	PCT AVL
5101 EMPLOYEE SALARIES	269,656.00	0.00	0.00	20,234.91	241,228.88	28,427.12	10.5
5102 EMPLOYEE BENEFITS	79,121.00	0.00	0.00	6,343.65	70,463.60	8,557.40	10.9
5203 TRAVEL	34,730.00	0.00	0.00	2,025.95	11,015.16	23,714.84	68.3
5204 CONTRACTUAL SVCS	164,781.00	0.00	61,712.47	4,607.19	74,578.43	28,490.10	17.3
5205 SUPPLIES & MATRLS	29,700.00	0.00	0.00	2,678.52	17,671.93	12,028.07	40.5
5207 CAPITAL OUTLAY	2,000.00	0.00	0.00	1,012.40	1,217.52	782.48	39.1
TOTALS	579,988.00	0.00	61,712.47	36,902.62	416,175.52	102,100.01	17.6

BREAKOUT BY COMPANY:

COMPANY 6503-I PROFESSIONAL & LICENSING BOARDS

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE	BUDGET AVAILABLE	PCT AVL
5101000 EMPLOYEE SALARIES	269,656.00	0.00	0.00	20,234.91	241,228.88	28,427.12	10.5
5102000 EMPLOYEE BENEFITS	79,121.00	0.00	0.00	6,343.65	70,463.60	8,557.40	10.9
5203000 TRAVEL	34,730.00	0.00	0.00	2,025.95	11,015.16	23,714.84	68.3
5204000 CONTRACTUAL SVCS	164,781.00	0.00	61,712.47	4,607.19	74,578.43	28,490.10	17.3
5205000 SUPPLIES & MATRLS	29,700.00	0.00	0.00	2,678.52	17,671.93	12,028.07	40.5
5207000 CAPITAL OUTLAY	2,000.00	0.00	0.00	1,012.40	1,217.52	782.48	39.1
PS SUBTOTALS	348,777.00	0.00	0.00	26,578.56	311,692.48	37,084.52	10.6
OE SUBTOTALS	231,211.00	0.00	61,712.47	10,324.06	104,483.04	65,015.49	28.1
COMPANY 6503-I TOT	579,988.00	0.00	61,712.47	36,902.62	416,175.52	102,100.01	17.6

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 05/31/2017

AGENCY BUDGET UNIT	10 1037	LABOR & REGULATION REAL ESTATE COMMISSION	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503 COMPANY NAME PROFESSIONAL & LICENSING BOARDS							
103700069901	6503	4293700		RESIDENT RENTAL AGENTS	480.00	3,240.00	
103700069901	6503	4293702		BROKER	13,050.00	59,812.00	
103700069901	6503	4293703		HOME INSPECTORS	400.00	2,400.00	
103700069901	6503	4293704		PROPERTY MANAGER	900.00	5,850.00	
103700069901	6503	4293705		SALES AGENTS	450.00	1,350.00	
103700069901	6503	4293707		FIRMS	700.00	6,380.00	
103700069901	6503	4293708		CONDOMINIUMS	.00	1,585.33	
103700069901	6503	4293710		TIMESHARE PROJECTS	225.00	5,558.33	
103700069901	6503	4293711		EDUCATIONAL COURSES	1,655.00	11,770.00	
103700069901	6503	4293712		ADDITIONAL LICENSES	120.00	1,410.00	
103700069901	6503	4293713		CHANGE OF ADDRESS	570.00	5,580.00	
103700069901	6503	4293714		CERTIFICATES OF LICENSE	455.00	2,690.00	
103700069901	6503	4293715		LATE RENEWAL FEES	1,340.00	7,375.00	
103700069901	6503	4293717		RENEWAL RES RENTAL AGENTS	.00	3,150.00	
103700069901	6503	4293718		RENEWAL AUCTIONEER	.00	3,000.00	
103700069901	6503	4293719		RENEWAL BROKER	1,000.00	164,575.00	
103700069901	6503	4293720		HOME INSPECTION RENEWAL	300.00	5,345.00	
103700069901	6503	4293721		RENEWAL PROPERTY MANAGER	125.00	9,625.00	
103700069901	6503	4293722		RENEWAL SALES AGENTS	250.00	250.00	
103700069901	6503	4293723		RENEWAL TIMESHARE AGENTS	.00	1,375.00	
103700069901	6503	4293724		RENEWAL FIRMS	125.00	28,180.00	
103700069901	6503	4293725		RENEWAL TIMESHARE PROJECT	.00	8,050.00	
103700069901	6503	4293726		RENEWAL ADDITIONAL LICENS	.00	1,770.00	
ACCT: 4293				BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	22,145.00	340,320.66	

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 05/31/2017AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1037 REAL ESTATE COMMISSION

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
ACCT: 42		LICENSES, PERMITS & FEES		22,145.00	340,320.66	**
103700069901	6503	4393003	MISC FINES & PENALTIES	417.44	13,326.24	*
ACCT: 4393		PENALTIES (NON-GOVERNMENTAL)		417.44	13,326.24	**
ACCT: 43		FINES, FORFEITS & PENALTIES		417.44	13,326.24	**
103700069901	6503	4596002	LICENSE LAW BOOKS SOLD	.00	1,088.00	*
103700069901	6503	4596003	DIRECTORIES/HOME BUYER GU	1,635.00	7,465.00	**
103700069901	6503	4596004	MAILING LABLES	.00	1,550.00	*
ACCT: 4596				1,635.00	10,103.00	**
ACCT: 45		CHARGES FOR SALES & SERVICES		1,635.00	10,103.00	**
103700069901	6503	4896004	COS-EDUCATION COURSE COST	.00	25,610.00	*
ACCT: 4896				.00	25,610.00	**
ACCT: 48		OTHER REVENUE		.00	25,610.00	*
103700069901	6503	4920045	NONOPERATING REVENUES	.00	6,773.25	**
ACCT: 4920		NONOPERATING REVENUE		.00	6,773.25	*
ACCT: 49		OTHER REVENUE		.00	6,773.25	**
CNTR: 103700069901				24,197.44	396,133.15	***
COMP: 6503				24,197.44	396,133.15	****
B UNIT: 1037				24,197.44	396,133.15	*****

Revenue Report Ending 5/31/17

(Additional Report)

Description	Budgeted	Current	Rev. to be Rec	YTD	PCT Rec.
Residential Rental Agents	2,000	480	(1,240)	3,240	162
Auctioneer	450	0	450	0	0
Broker	50,000	13,050	(9,812)	59,812	120
Home Inspectors	4,000	400	1,600	2,400	60
Property Manager	5,000	900	(850)	5,850	117
Sales Agents	3,000	450	1,650	1,350	45
Timeshare Agents	1,000	0	1,000	0	0
Firms	7,000	700	620	6,380	91
Condominiums	7,000	0	5,414.67	1,585.33	23
Timeshare Projects	6,000	225	441.67	5,558.33	93
Educational Courses	14,000	1,655	2,230	11,770	84
Additional Licenses	2,000	120	590	1,410	71
Change of Address	7,000	570	1,420	5,580	80
Certificate of Licensure	2,500	455	(190)	2,690	108
Late Renewal Fees	9,000	1,340	1,625	7,375	82
Renewal Res Rental Agents	2,500	0	(650)	3,150	126
Renewal Auctioneer	4,000	0	1,000	3,000	75
Renewal Broker	155,000	1,000	1,425	153,575	99
Home Inspection Renewal	5,000	300	(345)	5,345	107
Renewal Property Manager	9,000	125	(625)	9,625	107
Renewal Sales Agents	12,000	250	750	11,250	94
Renewal Timeshare Agents	1,000	0	(375)	1,375	138
Renewal Firms	36,000	125	7,820	28,180	78
Renewal Timeshare Project	5,000	0	(3,050)	8,050	161
Renewal Additional Licenses	4,000	0	2,230	1,770	44
Misc. Fines and Penalties	12,000	417.44	(1,326.24)	13,326.24	111
Interest Earned	6,500	0	(273.25)	6,773.25	104
License Law Books Sold	1,500	0	412	1,088	73
Directories/Guide Sold	4,000	1,635	(3,465)	7,465	187
Mailing Labels Sold	5,500	0	3,950	1,550	28
Seminar / Education Costs	31,000	0	5,390	25,610	83
Investigation Reimbursement	2,000	0	2,000	0	0
	415,950	24,197.44	42,018.34	396,133.15	95%
			(22,201.49)		

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

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	103700069901	1140000	284,984.00	DR	REAL ESTATE COMMISSION
6503	103700069902	1140000	100,000.00	DR	REAL ESTATE COMM RECOVERY FUND
COMPANY/SOURCE TOTAL 6503 699			384,984.00	DR *	
COMB/BUDG UNIT TOTAL 6503 1037			384,984.00	DR **	
BUDGET UNIT TOTAL 1037			384,984.00	DR ***	

BUDGET UNIT 1037

AVAILABLE FUNDS
AS OF: 06/29/2017
FY YEAR REMAINING: 0.5%
PAY DAYS REMAINING: 0

DATE 07/01/2017

BUDGET UNIT NAME REAL ESTATE COMMISSION

COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	MONTHLY EXPENDITURES	YEAR-TO-DATE APPROPRIATIONS	CASH BALANCE
6503-I	579,988.00	0.00	0.00	0.00	448,782.08	131,205.92	384,984.00
BUDGETED TOT	579,988.00	0.00	0.00	0.00	448,782.08	131,205.92	
ALL COMP TOT	579,988.00	0.00	0.00	0.00	448,782.08	131,205.92	

TOTAL BUDGETED:

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	269,656.00	0.00	0.00	21,425.02	262,653.90	7,002.10	2.6
5102 EMPLOYEE BENEFITS	79,121.00	0.00	0.00	6,498.64	76,962.24	2,158.76	2.7
5203 TRAVEL	34,730.00	0.00	0.00	666.30	11,681.46	23,048.54	66.4
5204 CONTRACTUAL SVCS	164,781.00	0.00	0.00	3,610.86	78,189.29	86,591.71	52.5
5205 SUPPLIES & MATRLS	29,700.00	0.00	0.00	202.74	17,874.67	11,825.33	39.8
5207 CAPITAL OUTLAY	2,000.00	0.00	0.00	203.00	1,420.52	579.48	29.0
TOTALS	579,988.00	0.00	0.00	32,606.56	448,782.08	131,205.92	22.6

BREAKOUT BY COMPANY:

COMPANY 6503-I PROFESSIONAL & LICENSING BOARDS

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE APPROPRIATIONS	BUDGET AVAILABLE	PCT AVL
5101000 EMPLOYEE SALARIES	269,656.00	0.00	0.00	21,425.02	262,653.90	7,002.10	2.6
5102000 EMPLOYEE BENEFITS	79,121.00	0.00	0.00	6,498.64	76,962.24	2,158.76	2.7
5203000 TRAVEL	34,730.00	0.00	0.00	666.30	11,681.46	23,048.54	66.4
5204000 CONTRACTUAL SVCS	164,781.00	0.00	0.00	3,610.86	78,189.29	86,591.71	52.5
5205000 SUPPLIES & MATRLS	29,700.00	0.00	0.00	202.74	17,874.67	11,825.33	39.8
5207000 CAPITAL OUTLAY	2,000.00	0.00	0.00	203.00	1,420.52	579.48	29.0
PS SUBTOTALS	348,777.00	0.00	0.00	27,923.66	339,616.14	9,160.86	2.6
OE SUBTOTALS	231,211.00	0.00	0.00	4,682.90	109,165.94	122,045.06	52.8
COMPANY 6503-I TOT	579,988.00	0.00	0.00	32,606.56	448,782.08	131,205.92	22.6

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 06/29/2017

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
AGENCY 10 LABOR & REGULATION					
BUDGET UNIT 1037 REAL ESTATE COMMISSION					
COMPANY NO 6503					
COMPANY NAME PROFESSIONAL & LICENSING BOARDS					
103700069901	6503	4293700	RESIDENT RENTAL AGENTS	360.00	3,600.00
103700069901	6503	4293702	BROKER	6,175.00	65,987.00
103700069901	6503	4293703	HOME INSPECTORS	200.00	2,600.00
103700069901	6503	4293704	PROPERTY MANAGER	900.00	6,750.00
103700069901	6503	4293705	SALES AGENTS	225.00	1,575.00
103700069901	6503	4293706	TIMESHARE AGENTS	675.00	675.00
103700069901	6503	4293707	FIRMS	1,100.00	7,480.00
103700069901	6503	4293708	CONDOMINIUMS	.00	1,585.33
103700069901	6503	4293710	TIMESHARE PROJECTS	.00	5,558.33
103700069901	6503	4293711	EDUCATIONAL COURSES	1,575.00	13,345.00
103700069901	6503	4293712	ADDITIONAL LICENSES	420.00	1,830.00
103700069901	6503	4293713	CHANGE OF ADDRESS	1,125.00	6,705.00
103700069901	6503	4293714	CERTIFICATES OF LICENSURE	615.00	3,305.00
103700069901	6503	4293715	LATE RENEWAL FEES	1,480.00	8,855.00
103700069901	6503	4293717	RENEWAL RES RENTAL AGENTS	.00	3,150.00
103700069901	6503	4293718	RENEWAL AUCTIONEER	.00	3,000.00
103700069901	6503	4293719	RENEWAL BROKER	1,250.00	165,825.00
103700069901	6503	4293720	HOME INSPECTION RENEWAL	100.00	5,445.00
103700069901	6503	4293721	RENEWAL PROPERTY MANAGER	.00	9,625.00
103700069901	6503	4293722	RENEWAL SALES AGENTS	125.00	375.00
103700069901	6503	4293723	RENEWAL TIMESHARE AGENTS	.00	1,375.00
103700069901	6503	4293724	RENEWAL FIRMS	.00	28,180.00
103700069901	6503	4293725	RENEWAL TIMESHARE PROJECT	.00	8,050.00
103700069901	6503	4293726	RENEWAL ADDITIONAL LICENS	.00	1,770.00

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 06/29/2017AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1037 REAL ESTATE COMMISSION

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
ACCT:	4293	BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		16,325.00	356,645.66	*
ACCT:	42	LICENSES, PERMITS & FEES		16,325.00	356,645.66	**
103700069901	6503	4393003	MISC FINES & PENALTIES	1,629.36	14,955.60	*
ACCT:	4393	PENALTIES (NON-GOVERNMENTAL)		1,629.36	14,955.60	*
ACCT:	43	FINES, FORFEITS & PENALTIES		1,629.36	14,955.60	**
103700069901	6503	4596002	LICENSE LAW BOOKS SOLD	8.00	1,096.00	
103700069901	6503	4596003	DIRECTORIES/HOME BUYER GU	1,610.00	9,075.00	
103700069901	6503	4596004	MAILING LABLES	.00	1,550.00	
ACCT:	4596			1,618.00	11,721.00	*
ACCT:	45	CHARGES FOR SALES & SERVICES		1,618.00	11,721.00	**
103700069901	6503	4896004	COS-EDUCATION COURSE COST	.00	25,610.00	
ACCT:	4896			.00	25,610.00	*
ACCT:	48	OTHER REVENUE		.00	25,610.00	**
103700069901	6503	4920045	NONOPERATING REVENUES	.00	6,773.25	
ACCT:	4920	NONOPERATING REVENUE		.00	6,773.25	*
ACCT:	49	OTHER REVENUE		.00	6,773.25	**
CNTR:	103700069901			19,572.36	415,705.51	***
COMP:	6503			19,572.36	415,705.51	****
B UNIT:	1037			19,572.36	415,705.51	*****

Revenue Report Ending 6/30/17

(Additional Report)

Description	Budgeted	Current	Rev. to be Rec	YTD	PCT Rec.
Residential Rental Agents	2,000	360	(1,600)	3,600	180
Auctioneer	450	0	450	0	0
Broker	50,000	6,175	(15,987)	65,987	132
Home Inspectors	4,000	200	1,400	2,600	65
Property Manager	5,000	900	(1,700)	6,700	134
Sales Agents	3,000	225	1,425	1,575	53
Timeshare Agents	1,000	675	325	675	68
Firms	7,000	1,100	(480)	7,480	107
Condominiums	7,000	0	5,414.67	1,585.33	23
Timeshare Projects	6,000	0	441.67	5,558.33	93
Educational Courses	14,000	1,575	655	13,345	95
Additional Licenses	2,000	420	170	1,830	92
Change of Address	7,000	1,125	295	6,705	96
Certificate of Licensure	2,500	615	(805)	3,305	132
Late Renewal Fees	9,000	1,480	145	8,855	98
Renewal Res Rental Agents	2,500	0	(650)	3,150	126
Renewal Auctioneer	4,000	0	1,000	3,000	75
Renewal Broker	155,000	1,250	300	154,700	100
Home Inspection Renewal	5,000	100	(445)	5,445	109
Renewal Property Manager	9,000	0	(625)	9,625	107
Renewal Sales Agents	12,000	125	625	11,375	95
Renewal Timeshare Agents	1,000	0	(375)	1,375	138
Renewal Firms	36,000	0	7,820	28,180	78
Renewal Timeshare Project	5,000	0	(3,050)	8,050	161
Renewal Additional Licenses	4,000	0	2,230	1,770	44
Misc. Fines and Penalties	12,000	1,629.36	(2,955.60)	14,955.60	125
Interest Earned	6,500	0	(273.25)	6,773.25	104
License Law Books Sold	1,500	8	404	1,096	73
Directories/Guide Sold	4,000	1,610	(5,075)	9,075	227
Mailing Labels Sold	5,500	0	3,950	1,550	28
Seminar / Education Costs	31,000	0	5,390	25,610	83
Investigation Reimbursement	2,000	0	2,000	0	0
	415,950	19,572.36	34,440.34	415,705.51	100%
			(34,195.85)		

CHAPTER 20:69:05

DISCIPLINARY PROCEEDINGS

Section

20:69:05:01	Complaints authorized -- Procedure following filing -- Electronic filing.
20:69:05:01.01	<u>Commission staff to investigate complaints.</u>
20:69:05:02	Dismissal of complaint.
20:69:05:03	Informal consultation disposition.
20:69:05:04	Assurance of voluntary compliance or consent order.
20:69:05:05	Formal proceedings.
20:69:05:06	Contents of commission complaint. REPEAL
20:69:05:07	Date of hearing. REPEAL
20:69:05:08	Answer.
20:69:05:09	Disqualification.
20:69:05:10	Per diem and mileage.
20:69:05:11	Final action by commission.

Cross-Reference: Procedure to follow in licensing matters, SDCL 1-26-16 to 1-26-19.1.

20:69:05:01. Complaints authorized -- Procedure following filing -- Electronic filing.
~~Any person, including commission members and staff, may file with the executive director of the commission a written complaint~~ claiming that a licensee or a subdivider has engaged or is engaging in conduct constituting grounds for disciplinary action. ~~may file with the executive director of the commission a written complaint.~~ The complaint shall be verified on oath, stating the name and address of the licensee or subdivider complained against and fully detailing the conduct against which the complaint is made. A commission member, or the executive director may file a complaint. Upon its receipt, the executive director or compliance officer of the commission ~~shall immediately~~ may request more information from the person filing the complaint. If sufficient information is received to allege grounds for disciplinary action the executive director shall serve a copy of the complaint by mail on the licensee or subdivider complained against and on any other affected parties. The licensee or subdivider complained against has 20 days to answer the complaint after its service. The licensee or subdivider shall serve an answer to the complaint on the executive director.

The executive director may reject the complaint if it is not in proper form or if it fails to allege grounds for disciplinary action. The person serving an answer under this section shall serve an original ~~and eight copies~~ on the executive director. However, the executive director may accept a complaint or answer in an electronic format if it is readily accessible by the commission and in a format that can be downloaded, printed, or otherwise maintained as a record for future reference. Any person filing a complaint or an answer electronically shall submit one copy of the original. ~~The executive director may reject the complaint or answer for failure to serve the required number of copies.~~

Source: SL 1975, ch 16, § 1; 2 SDR 7, effective July 30, 1975; 3 SDR 34, effective November 3, 1976; 10 SDR 54, effective December 5, 1983; 12 SDR 102, effective December 22, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from § 20:56:06:01, 20 SDR 18, effective August 16, 1993; 35 SDR 305, effective July 1, 2009.

General Authority: SDCL 36-21A-89(5).

Law Implemented: SDCL 1-26-29, 36-21A-68, 36-21A-86, 36-21A-93.

Declaratory Rulings:

(Repealed by Resolution 06-30-05-01, dated July 27, 2005) In a typical real estate transaction, a licensee is the agent of the seller. A listing agreement, signed by the seller and a broker, specifies the rate of commission to be paid to the licensee or licensees who sell the property. Although the rate of commission specified in the listing agreement obligates the seller to pay the rate of commission specified in that contract, nothing in the real estate licensing statutes precludes a licensee from reducing that commission. Similarly, if a licensee has a properly executed agreement as a buyer's agent and receives compensation from that buyer, the statutes do not preclude a reduction in that compensation. However, the statutes prohibit any rebate of a commission to a client buyer or client seller.

Payment of compensation in the form of a rebate or kickback to a buyer by a seller's agent or to a seller by a buyer's agent is not permitted under existing statutes. However, if a monetary consideration is included as an incentive to enter into a transaction, that incentive becomes part of the terms and conditions of the transaction. An agent must then have the knowledge and consent of the principal, and those terms of the transaction must be included in the offer to purchase. South Dakota Real Estate Commission Declaratory Ruling 93-1.

The responsible broker, as defined by SDCL 36-21A-1(8), or the qualifying broker as defined by SDCL 36-21A-38, is responsible for the activities of salesmen and broker associates, as specified in SDCL 36-21A-79, and must endorse each listing agreement, as required by SDCL 36-21A-73, by signing the otherwise completed contract. South Dakota Real Estate Commission Declaratory Ruling 94-1.

(Repealed by Resolution 06-30-05-02, dated July 27, 2005) This ruling provides an interpretation of SDCL 36-21A-71 subdivisions (9), (12), and (22) - Acts constituting unprofessional conduct and the use of various inducements offered to either the buyer or seller. The Real Estate Commission's decision concluded that commissions may be reduced and if other valuable consideration is included as a benefit then the consideration needs to be disclosed as part of the transaction with the licensee's principal's knowledge and consent. South Dakota Real Estate Commission Declaratory Ruling 03-01, dated April 7, 2003.

20:69:05:01.01. Commission staff to investigate complaints. The commission staff is responsible for reviewing and processing disciplinary cases before the commission. At any point after the receipt of a complaint the executive director may appoint a commission member to assist staff in the processing of complaints.

General Authority: SDCL 36-21A-89

Law Implemented: SDCL 36-21A-18, 36-21A-19, 36-21A-68, 36-21A-89.

20:69:05:02. Dismissal of complaint. After receipt of the answer to the complaint specified in § 20:69:05:01 or after the time has expired for the licensee or subdivider complained against to answer, the executive director shall submit the complaint and any answer to the commission staff. The commission staff shall examine the complaint and answer to determine ~~whether or not it has merit or is frivolous or whether or not it charges conduct constituting grounds for~~ what, if any, disciplinary action should be taken.

If the commission staff determines that the complaint ~~is without merit or is frivolous or that it does not~~ charges conduct ~~not~~ constituting grounds for disciplinary action, it shall inform the commission of the intent to dismiss the complaint and notify in writing the complainant and the subdivider or licensee complained against and any other affected parties, stating the reasons for dismissal. ~~If the relief sought does not fall within the jurisdiction of the commission, it shall dismiss the complaint.~~

If the commission disagrees with commission staff's intent to dismiss the complaint, the commission shall assign one of its members to assist in the resolution of the complaint.

Source: SL 1975, ch 16, § 1; 2 SDR 7, effective July 30, 1975; 5 SDR 21, effective September 21, 1978; 10 SDR 54, effective December 5, 1983; 12 SDR 102, effective December 22, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 100, effective January 10, 1989; transferred from § 20:56:06:02, 20 SDR 18, effective August 16, 1993.

General Authority: SDCL 36-21A-89.

Law Implemented: SDCL 1-26-29, 36-21A-86, 36-21A-89.

20:69:05:03. Informal ~~consultation~~ disposition. If the commission staff considers the complaint to ~~be of a serious nature constituting~~ constitute grounds for disciplinary action, it may, in its discretion, ~~consult with the party or parties affected~~ negotiate an assurance of voluntary compliance or a consent agreement in an effort to resolve the matter satisfactorily without the necessity of a formal hearing. ~~The commission shall notify in writing the person making the complaint, the subdivider or licensee complained against, and any other affected parties of the results of the informal consultation and any action taken. Informal consultation does not prevent the commission from thereafter conducting a formal hearing.~~

Any informal disposition negotiated by commission staff is subject to commission approval.

Source: SL 1975, ch 16, § 1; 2 SDR 7, effective July 30, 1975; 5 SDR 21, effective September 21, 1978; 10 SDR 54, effective December 5, 1983; 12 SDR 102, effective December 22, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 100, effective January 10, 1989; transferred from § 20:56:06:03, 20 SDR 18, effective August 16, 1993.

General Authority: SDCL 36-21A-89.

Law Implemented: SDCL 1-26-29, 36-21A-86, 36-21A-89.

20:69:05:05. Formal proceedings. If the commission staff decides to conduct a formal hearing after a complaint has been filed ~~and after any informal consultation~~, the commission staff shall mail a formal complaint issued in ~~its~~the commission's name and a notice of hearing to the licensee or subdivider complained against, the person making the complaint, and any other affected parties.

The formal complaint shall contain all the information required by SDCL 1-26-17

Source: SL 1975, ch 16, § 1; 2 SDR 7, effective July 30, 1975; 5 SDR 21, effective September 21, 1978; 10 SDR 54, effective December 5, 1983; 12 SDR 102, effective December 22, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 100, effective January 10, 1989; transferred from § 20:56:06:04, 20 SDR 18, effective August 16, 1993.

General Authority: SDCL 36-21A-89.

Law Implemented: SDCL 1-26-29, 36-21A-86.

~~20:69:05:06. Contents of commission complaint.~~ The commission ~~formal~~ complaint shall contain the name of the subdivider or licensee complained against, the name and address of the person making the complaint, the details of the conduct complained against, and the date of the formal commission complaint. REPEAL

Source: SL 1975, ch 16, § 1; 12 SDR 102, effective December 22, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 100, effective January 10, 1989; transferred from § 20:56:06:05, 20 SDR 18, effective August 16, 1993.

General Authority: SDCL 36-21A-89.

Law Implemented: SDCL 1-26-29, 36-21A-86.

~~20:69:05:07. Date of hearing.~~ The hearing on a complaint shall be held at a time and place designated by the commission. REPEAL

Source: SL 1975, ch 16, § 1; 2 SDR 7, effective July 30, 1975; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from § 20:56:06:07, 20 SDR 18, effective August 16, 1993.

General Authority: SDCL 36-21A-89.

Law Implemented: SDCL 36-21A-86.

20:69:05:08. Answer. The subdivider or licensee ~~may~~must file ~~prior to or submit at the time of hearing~~ an answer admitting, denying, qualifying, or explaining any or all of the facts contained in the formal ~~commission~~ complaint. The answer must be filed within 20 days after the receipt of the formal ~~commission~~ complaint. The person serving an answer under this section shall serve an original ~~and eight copies~~ on the executive director. ~~The executive director may reject the answer for failure to serve the required number of copies.~~

Source: SL 1975, ch 16, § 1; 3 SDR 34, effective November 3, 1976; 10 SDR 54, effective December 5, 1983; 12 SDR 102, effective December 22, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 100, effective January 10, 1989; transferred from § 20:56:06:08, 20 SDR 18, effective August 16, 1993.

General Authority: SDCL 36-21A-89.

Law Implemented: SDCL 1-26-17, 1-26-29, 36-21A-86.

20:69:05:09. No changes

20:69:05:10. No changes

20:69:05:11. No changes