

CHAPTER 20:69:05

DISCIPLINARY PROCEEDINGS

Section

20:69:05:01 Complaints authorized -- Procedure following filing -- Electronic filing.

20:69:05:01.01 Commission staff to investigate complaints.

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20:69:05:06 ~~Contents of commission complaint~~ Repealed.

20:69:05:07 ~~Date of hearing~~ Repealed.

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.

~~A 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 ~~of the complaint,~~ 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~~ party. The licensee or subdivider complained against ~~has~~ shall have 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 investigating disciplinary cases before the commission. At any time after the receipt of a complaint the executive director may appoint a commission member to direct staff in reviewing and investigating complaints.

Source:

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~~ whether disciplinary action is necessary.

If the commission staff determines that the complaint ~~is without merit or is frivolous or that it does not charge~~ charge conduct ~~not~~ constituting grounds for disciplinary action, ~~it~~ the commission staff 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-19, 36-21A-86, 36-21A-89.

20:69:05:03. Informal ~~consultation~~ disposition. If the commission staff ~~considers~~ determines the complaint ~~to be of a serious nature constituting~~ constitutes grounds for disciplinary action, ~~it~~ the commission staff may, ~~in its~~ at their 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~~ party.

A formal complaint shall contain any 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 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~~ Repealed.

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~~ Repealed.

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~~ shall file ~~prior to or submit at the time of hearing~~ an answer admitting, denying, qualifying, or explaining any ~~or all of the facts~~ fact contained in the formal ~~commission~~ complaint. The answer ~~must~~ shall be filed within 20 days ~~after the following~~ 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.

Meeting Minutes
South Dakota Real Estate Commission
711 East Wells Ave
July 12th, 2017 8:30 a.m. CDT

Chairman Ken Cotton called the meeting to order at 8:30 a.m. A quorum was participating.

Members Participating: Ryan Wordeman
Mark Wahlstrom
Ken Cotton
Matt Krogman

Members Absent: Dave Bonde

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

Request that a correction be made to the May 10th minutes on page one in regards to the spelling of Dave Bonde's name.

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

Summary of the financials for May and June 2017 was presented by Director Miller. Krogman made a motion to approve financial reports. Wahlstrom seconded the motion. Cotton 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 2017-106 with the correction of Stacy Schramm's name on page one paragraph one. Wordeman seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Krogman motioned to approve consent agreement 2017-107. Wahlstrom seconded the Motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Michelle Metzinger and Brian Jackson joined the meeting at 8:35 a.m.

Krogman motioned to table consent agreement 2017-108 until next commission meeting. Wahlstrom seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Wahlstrom motioned to retable consent agreement 2017-100 until next commission meeting. Krogman seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Discussion was held regarding application A. Wahlstrom motioned to deny application A. Wordeman seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Discussion was held regarding application B. Wordeman motioned to approve application B upon proof of all judgements being satisfied. Krogman seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

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

Wahlstrom made a motion to dismiss complaint 2017-007. Wordeman seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Complaint 2017-095: Stephanie Severson/Century 21 Gustafson, Krogman & Associates, Brookings, SD for violation of SDCL 36-21A-71(21), (30), & (31), SDCL 36-21A-78, SDCL 36-21A-130, SDCL 36-21A-140 and 36-21A-147.

- a) SEVERSON shall pay an administrative fine in the amount of \$500.00 by August 31, 2017;
- b) SEVERSON shall pay for, attend, and successfully complete 6 hour agency course. The hours shall not be recognized as required continuing education hours and shall be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017; and
- c) SEVERSON shall pay for, attend, and successfully complete 6 hour contracts course. The hours shall not be recognized as required continuing education hours and shall be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017.

Matt Krogman requested to abstain from this consent agreement.

Wordeman motioned to approve consent agreement 2017-095. Wahlstrom seconded the motion. Cotton called the roll, 3-0 AYE (Cotton, Wahlstrom, Wordeman). **MOTION PASSED.**

Wahlstrom motioned for extension in regards to the contract course completion until December 31st, 2017. Wordeman seconded this motion. Cotton called the roll, 3-0 AYE (Cotton, Wahlstrom, Wordeman). **MOTION PASSED.**

Complaint 2017-098: James Tharp/Montgomery Agency Real Estate, Huron, SD for violation of SDCL 36-21A-128, SDCL 36-21A-129, SDCL 36-21A-147, SDCL 36-21A -130 and SDCL 36-21A-140(4).

- a) THARP shall pay an administrative fine in the amount of \$500.00 by August 31, 2017;
- b) THARP shall pay for, attend, and successfully complete 6 hour agency course. The hours shall not be recognized as required continuing education hours and **shall** be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017; and

- c) THARP shall pay for, attend, and successfully complete 6 hour contracts course. The hours shall not be recognized as required continuing education hours and shall be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017.

Wordeman motioned to approve consent agreement 2017-098. Wahlstrom seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Complaint 2017-101: Halli Holden/Lee Real Estate, Pierre, SD for violation of SDCL 36-21A-71(1), SDCL 36-21A-78 and SDCL 36-21A-132(2).

- a) HOLDEN shall pay an administrative fine in the amount of \$1,000.00 by August 31, 2017;
- b) HOLDEN shall pay for, attend, and successfully complete 6 hour agency course. The hours shall not be recognized as required continuing education hours and shall be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017; and
- c) HOLDEN shall pay for, attend, and successfully complete 6 hour contracts course. The hours shall not be recognized as required continuing education hours and shall be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017.

Krogman motioned to approve consent agreement 2017-101. Wahlstrom seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Complaint 2017-103: Troy Bowers/Dakota Prairie Real Estate, Pierre, SD.

Krogman motioned to dismiss complaint 2017-103. Wordeman seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Complaint 2017-105: Ryan Krogman/Century 21 Gustafson, Krogman & Associates, Brookings, SD for violation of SDCL 36-21A-71(21), (30), & (31), SDCL 36-21A-78 and SDCL 36-21A-79.

1. KROGMAN agrees, in lieu of contesting this matter formally, to voluntarily accept the following terms and conditions for entry of this Consent Agreement:
 - a) KROGMAN shall pay an administrative fine in the amount of \$500.00 by August 31, 2017;
 - b) KROGMAN shall pay for, attend, and successfully complete 6 hour agency course. The hours shall not be recognized as required continuing education hours and shall be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017; and
 - c) KROGMAN shall pay for, attend, and successfully complete 6 hour contracts course. The hours shall not be recognized as required continuing education hours and shall be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017.

Matt Krogman requested to abstain from this consent agreement.

Wahlstrom motioned to approve consent agreement 2017-105. Wordeman seconded this motion. Cotton called the roll, 3-0 AYE (Cotton, Wahlstrom, Wordeman). **MOTION PASSED.**

Wahlstrom motioned for extension in regards to the contract course completion to December 31st, 2017. Wordeman seconded this motion. Cotton called the roll, 3-0 AYE (Cotton, Wahlstrom, Wordeman). **MOTION PASSED.**

Complaint 2017-111: Meredith Lee/Lee Real Estate, Pierre, SD for violation of SDCL 36-21A-71(1), SDCL 36-21A-78, SDCL 36-21A-79 and SDCL 36-21A-132(2).

- a) LEE shall pay an administrative fine in the amount of \$1,000.00 by August 31, 2017;
- b) LEE shall pay for, attend, and successfully complete 6 hour agency course. The hours shall not be recognized as required continuing education hours and shall be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017; and
- c) LEE shall pay for, attend, and successfully complete 6 hour contracts course. The hours shall not be recognized as required continuing education hours and shall be taken in a classroom setting. Proof of the successful completion of the course shall be provided to the Commission by October 31, 2017.

Wahlstrom motions to approve consent agreement 2017-111. Wordeman seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Extension Request for licensees, Dawn Eining, Richard Shelton and Reg Keilsasser in regards to completion of contract education course due to lack of available classes. Krogman motioned to grant this extension until September 30th, 2017. Wordeman seconded the motioned. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Commission meeting took a break at 9:40 a.m.

Commission meeting reconvened at 9:54 a.m.

Michelle Kleven entered the meeting at 9:54 a.m.

Team legislation discussion was held.

Krogman motions to approve the rule changes under chapter 20:69:05 presented by Graham Oey. Wahlstrom seconded the motion. Cotton called the roll. **MOTION PASSED** by unanimous vote.

Next Meeting: September 7th, 2017

Meeting Adjourned: 11:40 a.m.

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

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	103700069901	1140000	254,818.97	DR	REAL ESTATE COMMISSION
6503	103700069902	1140000	100,000.00	DR	REAL ESTATE COMM RECOVERY FUND
COMPANY/SOURCE TOTAL 6503 699			354,818.97	DR *	
COMP/BUDG UNIT TOTAL 6503 1037			354,818.97	DR **	
BUDGET UNIT TOTAL 1037			354,818.97	DR ***	

AVAILABLE FUNDS
AS OF: 07/31/2017
FY YEAR REMAINING: 91.8%
PAY DAYS REMAINING: 22

BUDGET UNIT 1037

BUDGET UNIT NAME REAL ESTATE COMMISSION

COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE
6503-I	580,357.00	0.00	0.00	24,104.75	36,227.41	520,024.84	354,818.97
BUDGETED TOT	580,357.00	0.00	0.00	24,104.75	36,227.41	520,024.84	
ALL COMP TOT	580,357.00	0.00	0.00	24,104.75	36,227.41	520,024.84	

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	269,919.00	0.00	0.00	19,990.81	19,990.81	249,928.19	92.6
5102 EMPLOYEE BENEFITS	79,288.00	0.00	0.00	6,380.08	6,380.08	72,907.92	92.0
5203 TRAVEL	37,350.00	0.00	0.00	965.52	965.52	36,384.48	97.4
5204 CONTRACTUAL SVCS	160,185.00	0.00	24,005.75	4,086.69	4,086.69	132,092.56	82.5
5205 SUPPLIES & MATRLS	31,300.00	0.00	0.00	4,804.31	4,804.31	26,495.69	84.7
5207 CAPITAL OUTLAY	2,315.00	0.00	99.00	0.00	0.00	2,216.00	95.7
TOTALS	580,357.00	0.00	24,104.75	36,227.41	36,227.41	520,024.84	89.6

BREAKOUT BY COMPANY:

COMPANY	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE APPROPRIATIONS	BUDGET AVAILABLE	PCT AVL
COMPANY 6503-I PROFESSIONAL & LICENSING BOARDS	580,357.00	0.00	24,104.75	36,227.41	36,227.41	520,024.84	89.6
5101000 EMPLOYEE SALARIES	269,919.00	0.00	0.00	19,990.81	19,990.81	249,928.19	92.6
5102000 EMPLOYEE BENEFITS	79,288.00	0.00	0.00	6,380.08	6,380.08	72,907.92	92.0
5203000 TRAVEL	37,350.00	0.00	0.00	965.52	965.52	36,384.48	97.4
5204000 CONTRACTUAL SVCS	160,185.00	0.00	24,005.75	4,086.69	4,086.69	132,092.56	82.5
5205000 SUPPLIES & MATRLS	31,300.00	0.00	0.00	4,804.31	4,804.31	26,495.69	84.7
5207000 CAPITAL OUTLAY	2,315.00	0.00	99.00	0.00	0.00	2,216.00	95.7
PS SUBTOTALS	349,207.00	0.00	0.00	26,370.89	26,370.89	322,836.11	92.4
OE SUBTOTALS	231,150.00	0.00	24,104.75	9,856.52	9,856.52	197,188.73	85.3
COMPANY 6503-I TOT	580,357.00	0.00	24,104.75	36,227.41	36,227.41	520,024.84	89.6

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 07/31/2017

AGENCY 10 LABOR & REGULATION
 BUDGET UNIT 1037 REAL ESTATE COMMISSION

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503					
COMPANY NAME PROFESSIONAL & LICENSING BOARDS					
103700069901	6503	4293700	RESIDENT RENTAL AGENTS	240.00	240.00
103700069901	6503	4293702	BROKER	2,925.00	2,925.00
103700069901	6503	4293704	PROPERTY MANAGER	900.00	900.00
103700069901	6503	4293705	SALES AGENTS	225.00	225.00
103700069901	6503	4293707	FIRMS	300.00	300.00
103700069901	6503	4293711	EDUCATIONAL COURSES	525.00	525.00
103700069901	6503	4293712	ADDITIONAL LICENSES	60.00	60.00
103700069901	6503	4293713	CHANGE OF ADDRESS	795.00	795.00
103700069901	6503	4293714	CERTIFICATES OF LICENSURE	45.00	45.00
ACCT: 4293	BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)			6,015.00	6,015.00 *
ACCT: 42	LICENSES, PERMITS & FEES			6,015.00	6,015.00 **
103700069901	6503	4596003	DIRECTORIES/HOME BUYER GU	1,505.00	1,505.00
ACCT: 4596				1,505.00	1,505.00 *
ACCT: 45	CHARGES FOR SALES & SERVICES			1,505.00	1,505.00 **
CNTR: 103700069901				7,520.00	7,520.00 ***
COMP: 6503				7,520.00	7,520.00 ****
B UNIT: 1037				7,520.00	7,520.00 *****

Revenue Report Ending 7/31/17

(Additional Report)

Description	Budgeted	Current	Rev. to be Rec	YTD	PCT Rec.
Residential Rental Agents	3,000	240	2,670	240	8
Auctioneer	450	0	450	0	
Broker	65,000	2,925	62,075	2,925	5
Home Inspectors	4,000	0	4,000	0	
Property Manager	6,000	900	5,100	900	15
Sales Agents	2,000	225	1,775	225	11
Timeshare Agents	1,000	0	1,000	0	
Firms	7,500	300	7,200	300	4
Condominiums	7,000	0	7,000	0	
Timeshare Projects	6,000	0	6,000	0	
Educational Courses	14,000	525	13,475	525	4
Additional Licenses	2,000	60	1,940	60	3
Change of Address	7,000	795	6,205	795	11
Certificate of Licensure	3,000	45	2,955	45	2
Late Renewal Fees	9,000	0	9,000	0	
Renewal Res Rental Agents	3,000	0	3,000	0	
Renewal Auctioneer	5,000	0	5,000	0	
Renewal Broker	185,500	0	185,500	0	
Home Inspection Renewal	5,000	0	5,000	0	
Renewal Property Manager	9,000	0	9,000	0	
Renewal Sales Agents	15,000	0	15,000	0	
Renewal Timeshare Agents	1,000	0	1,000	0	
Renewal Firms	38,000	0	38,000	0	
Renewal Timeshare Project	7,000	0	7,000	0	
Renewal Additional Licenses	4,000	0	4,000	0	
Misc. Fines and Penalties	15,000	0	15,000	0	
Interest Earned	7,350	0	7,350	0	
License Law Books Sold	1,500	8	1,492	8	1
Directories/Guide Sold	9,000	1,505	7,495	1,505	17
Mailing Labels Sold	5,500	0	5,500	0	
Investigation Reimbursement	2,000	0	2,000	0	
	449,850	7,520	442,330	7,520	2%

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

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	103700069901	1140000	228,368.50	DR	REAL ESTATE COMMISSION
6503	103700069902	1140000	100,000.00	DR	REAL ESTATE COMM RECOVERY FUND
COMPANY/SOURCE TOTAL 6503 699			328,368.50	DR *	
COMP/BUDG UNIT TOTAL 6503 1037			328,368.50	DR **	
BUDGET UNIT TOTAL 1037			328,368.50	DR ***	

BUDGET UNIT 1037

AVAILABLE FUNDS

AS OF: 08/31/2017

FY YEAR REMAINING: 83.3%

PAY DAYS REMAINING: 20

DATE 09/02/2017

BUDGET UNIT NAME REAL ESTATE COMMISSION

COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE
6503-I	580,357.00	0.00	0.00	22,452.50	71,545.56	486,358.94	328,368.50
BUDGETED TOT	580,357.00	0.00	0.00	22,452.50	71,545.56	486,358.94	
ALL COMP TOT	580,357.00	0.00	0.00	22,452.50	71,545.56	486,358.94	

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	269,919.00	0.00	0.00	21,030.96	41,021.77	228,897.23	84.8
5102 EMPLOYEE BENEFITS	79,288.00	0.00	0.00	6,481.79	12,861.87	66,426.13	83.8
5203 TRAVEL	37,350.00	0.00	0.00	2,096.59	3,062.11	34,287.89	91.8
5204 CONTRACTUAL SVCS	160,185.00	0.00	22,452.50	5,377.40	9,464.09	128,268.41	80.1
5205 SUPPLIES & MATRLS	31,300.00	0.00	0.00	232.41	5,036.72	26,263.28	83.9
5207 CAPITAL OUTLAY	2,315.00	0.00	0.00	99.00	99.00	2,216.00	95.7
TOTALS	580,357.00	0.00	22,452.50	35,318.15	71,545.56	486,358.94	83.8

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	269,919.00	0.00	0.00	21,030.96	41,021.77	228,897.23	84.8
5102000 EMPLOYEE BENEFITS	79,288.00	0.00	0.00	6,481.79	12,861.87	66,426.13	83.8
5203000 TRAVEL	37,350.00	0.00	0.00	2,096.59	3,062.11	34,287.89	91.8
5204000 CONTRACTUAL SVCS	160,185.00	0.00	22,452.50	5,377.40	9,464.09	128,268.41	80.1
5205000 SUPPLIES & MATRLS	31,300.00	0.00	0.00	232.41	5,036.72	26,263.28	83.9
5207000 CAPITAL OUTLAY	2,315.00	0.00	0.00	99.00	99.00	2,216.00	95.7
PS SUBTOTALS	349,207.00	0.00	0.00	27,512.75	53,883.64	295,323.36	84.6
OE SUBTOTALS	231,150.00	0.00	22,452.50	7,805.40	17,661.92	191,035.58	82.6
COMPANY 6503-I TOT	580,357.00	0.00	22,452.50	35,318.15	71,545.56	486,358.94	83.8

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 08/31/2017

AGENCY 10 LABOR & REGULATION
 BUDGET UNIT 1037 REAL ESTATE COMMISSION

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
		6503	PROFESSIONAL & LICENSING BOARDS		
		6503	RESIDENT RENTAL AGENTS	120.00	360.00
		6503	BROKER	1,800.00	4,725.00
		6503	HOME INSPECTORS	625.00	625.00
		6503	PROPERTY MANAGER	225.00	1,125.00
		6503	SALES AGENTS	.00	225.00
		6503	TIMESHARE AGENTS	225.00	225.00
		6503	FIRMS	700.00	1,000.00
		6503	EDUCATIONAL COURSES	425.00	950.00
		6503	ADDITIONAL LICENSES	60.00	120.00
		6503	CHANGE OF ADDRESS	195.00	990.00
		6503	CERTIFICATES OF LICENSURE	45.00	90.00
ACCT:	4293		BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	4,420.00	10,435.00 *
ACCT:	42		LICENSES, PERMITS & FEES	4,420.00	10,435.00 **
		6503	DIRECTORIES/HOME BUYER GU	300.00	1,805.00
ACCT:	4596			300.00	1,805.00 *
ACCT:	45		CHARGES FOR SALES & SERVICES	300.00	1,805.00 **
		6503	NONOPERATING REVENUES	5,250.40	5,250.40
ACCT:	4920		NONOPERATING REVENUE	5,250.40	5,250.40 *
ACCT:	49		OTHER REVENUE	5,250.40	5,250.40 **
CNTR:	103700069901			9,970.40	17,490.40 ***
COMP:	6503			9,970.40	17,490.40 ****
B UNIT:	1037			9,970.40	17,490.40 *****

Revenue Report Ending 8/31/17

(Additional Report)

Description	Budgeted	Current	Rev. to be Rec	YTD	PCT Rec.
Residential Rental Agents	3,000	120	2,640	360	12
Auctioneer	450	0	450	0	
Broker	65,000	1,800	60,275	4,725	7
Home Inspectors	4,000	625	3,375	625	16
Property Manager	6,000	225	4,875	1,125	19
Sales Agents	2,000	0	1,775	225	11
Timeshare Agents	1,000	225	775	225	23
Firms	7,500	700	6,500	1,000	13
Condominiums	7,000	0	7,000	0	
Timeshare Projects	6,000	0	6,000	0	
Educational Courses	14,000	425	13,050	950	7
Additional Licenses	2,000	60	1,880	120	6
Change of Address	7,000	195	6,010	990	14
Certificate of Licensure	3,000	45	2,910	90	3
Late Renewal Fees	9,000	0	9,000	0	
Renewal Res Rental Agents	3,000	0	3,000	0	
Renewal Auctioneer	5,000	0	5,000	0	
Renewal Broker	185,500	0	185,500	0	
Home Inspection Renewal	5,000	0	5,000	0	
Renewal Property Manager	9,000	0	9,000	0	
Renewal Sales Agents	15,000	0	15,000	0	
Renewal Timeshare Agents	1,000	0	1,000	0	
Renewal Firms	38,000	0	38,000	0	
Renewal Timeshare Project	7,000	0	7,000	0	
Renewal Additional Licenses	4,000	0	4,000	0	
Misc. Fines and Penalties	15,000	5,250.40	9,749.60	5,250.40	35
Interest Earned	7,350	0	7,350	0	
License Law Books Sold	1,500	8	1,492	8	1
Directories/Guide Sold	9,000	300	7,195	1,805	20
Mailing Labels Sold	5,500	0	5,500	0	
Investigation Reimbursement	2,000	0	2,000	0	
	449,850	9,970.40	432,359.60	17,490.40	4%

36-21A-1. Definition of terms. Terms used in this chapter mean:

(1) "Agency," any relationship by which one person acts for or on behalf of a client subject to the client's reasonable direction and control;

(2) "Agency agreement," a written agreement between a broker and a client which creates a fiduciary relationship between the broker and client. The payment or promise of payment of compensation to a responsible broker does not determine whether an agency relationship has been created between any responsible broker or licensees associated with the responsible broker and a client;

(3) "Auction," any public sale of real estate as defined in § 36-21A-11 or business property as defined in subdivision 36-21A-6 (3) at public offering to the highest bidder;

(4) "Auctioneer," any person licensed under this chapter who auctions, offers, attempts or agrees to auction real estate or business opportunities;

(5) "Broker associate," any broker acting in association with or under the auspices of a responsible broker;

(6) "Client," any person, including a seller/landlord or a buyer/tenant, who has entered into an agency relationship with a real estate licensee;

(7) "Commission," the South Dakota Real Estate Commission;

(8) "Consumer," any person seeking or receiving services from a real estate broker;

(9) "Customer," any party to a real estate transaction who does not have an agency relationship with a licensee;

(10) "Designated broker," any broker licensee designated by a responsible broker to act for the company in the conduct of real estate brokerage;

(11) "In-company transaction," any transaction in which both the seller/landlord and the buyer/tenant receive real estate services from the same broker or from licensees associated with the same broker;

(12) "Licensee," any person holding a license issued pursuant to this chapter;

(13) "Limited agent," any licensee who has a written agency relationship with both the seller and the buyer in the same in-company transaction;

(14) "Person," any individual, corporation, limited liability company, partnership, limited partnership, association, joint venture or any other entity, foreign or domestic;

(15) "Purchaser," any person who acquires or attempts to acquire or succeeds to an interest in real property;

(16) "Responsible broker," any person holding a broker's license issued pursuant to this chapter who is responsible for the real estate activities conducted by those licensees acting in association with or under the auspices of the responsible broker;

(17) "Served actively," if referring to a real estate salesman or broker associate, having the license on an active status with the commission;

(18) "Single agent," any licensee who represents only one party to a transaction;

(19) "Subdivider," a person who causes land to be subdivided into a subdivision for that person or others, or who undertakes to develop a subdivision. However, this does not include a public agency or officer authorized by law to create subdivisions;

(20) "Subdivision," or "subdivided land," any real estate offered for sale and which has been registered under the Interstate Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15 U.S.C. 1701 and following, as such Act existed on January 1, 1980, or real estate located out of this state which is divided or proposed to be divided into fifty or more lots, parcels, or units;

(21) "Team," any one or more persons licensed by the commission who work under the supervision of a responsible broker, work together on real estate transactions to provide real estate brokerage services, and are designated as a team by the responsible broker;

(22) "Team Leader," any person licensed by the commission and appointed by his or her responsible or designated broker as the leader for his or her team or group of licensees associated with the same responsible broker.

~~(2123)~~ "Transaction broker," a broker who assists one or more parties with a real estate transaction without being an agent or advocate for the interests of any party to the transaction. The term includes the licensees associated with the broker;

~~(2224)~~ "Transaction broker agreement," a written agreement in which the broker does not represent either the seller or the buyer in a fiduciary capacity. No brokerage relationship can be created or implied by word or action alone, but only by written agreement clarifying the brokerage relationship.

36-21A-89. Promulgation of rules for administration and enforcement of this chapter. The commission may promulgate rules pursuant to chapter 1-26 relating to the administration and enforcement of the provisions of this chapter in the following areas:

- (1) Procedures for conducting the commission's business;
- (2) Procedures and qualifications for application, minimum requirements for examination, procedures for the examination and the administration of the examination, the required score for passing the examination, and procedures for replacement of a license;
- (3) Requirements for dividing a commission with a broker in another state, requirements for application for licensure by reciprocity and the practice of a nonresident licensee in the state;
- (4) Procedures for application to provide classroom instruction or correspondence work for prelicensing education, qualifications of the instructors and facilities, and procedures for approving classroom instruction and correspondence work and for withdrawing the approval;
- (5) Procedures for disciplinary proceedings, including requirements for filing a complaint, dismissal of a complaint, informal and formal resolution of a complaint, formal complaint and answer requirements, final action and review, disqualification of a commission member from a hearing and authorization for per diem and mileage;
- (6) Procedures for declaratory rulings, petitions for rules and contested cases;
- (7) Requirements for a real estate auction and the requirements, duties and responsibilities of an auctioneer;
- (8) Requirements for mortgage brokers, including areas such as trust accounts, record-keeping, written contracts, full disclosure and restrictions on chargeable costs and expenses;
- (9) Requirements for continuing education including procedures for granting a certificate of accreditation; notification of a material change in an approved course offering; suspension, revocation and denial of course approval; notice to students regarding the course and opportunity for comment; auditing; certificates of attendance; preregistration and limits on correspondence courses; ~~and~~
- (10) Requirements for property managers, including areas such as trust accounts, auditing, contracts, disclosure, disciplinary matters, financial obligations and records, and property management accounting; and

(11) Requirements for establishing and maintaining teams and the requirements, duties, and responsibilities of Team Leaders.