

SOUTH DAKOTA REAL ESTATE COMMISSION
TELEPHONIC MEETING
JANUARY 8, 2014
221 WEST CAPITOL AVE STE 101
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened telephonically at 9:30 a.m. on January 8, 2014. Present for the meeting were Chairman Mark Wahlstrom and commission members David Bonde, Matt Krogman, Paula Lewis and Doug Nelson. Also present were executive director Melissa Miller, licensing program administrator Norma Schilling and Department of Labor and Regulation legal counsel Aaron Arnold.

Motion by Nelson, seconded by Krogman, to approve the agenda as presented. Motion carried by roll call vote.

Motion by Krogman, seconded by Bonde, to approve the minutes of the November 14 & 15, 2013 meeting. Motion carried by roll call vote.

Motion by Nelson, seconded by Krogman, to approve the financial reports for November & December 2013. Motion carried by roll call vote.

Motion by Bonde, seconded by Krogman, to enter into executive session at 9:47 a.m. pursuant to SDCL 1-25-2(3). Motion carried by roll call vote.

The Commission reconvened to regular session at 11:40 a.m.

Compliance officer Brian Jackson joined the meeting at 11:40 a.m.

Motion by Nelson, second by Bonde, to have legal counsel negotiate a consent agreement with the licensee in complaint 2014-003. Motion carried by roll call vote.

Motion by Krogman, seconded by Nelson, to dismiss complaint 2014-004 with a letter to the brokers and licensees involved. Motion carried by roll call vote.

Motion by Lewis, seconded by Krogman, to dismiss complaint 2014-005. Motion carried by roll call vote with commission member Nelson recusing himself from the complaint.

Motion by Nelson, seconded by Krogman, to have legal counsel negotiate a Stipulation and Assurance of Voluntary Compliance with the transaction broker and dismiss the complaint against the buyer as a licensee in complaint #2014-006. Motion carried by roll call vote.

Motion by Krogman, seconded by Lewis, to approve the application for conditional approval. Motion carried by roll call vote.

Motion by Krogman, seconded by Bonde, to approve the consent agreement for Donald Welker as follows:

- A. Mr. Welker will comply with all laws and regulations relating to his profession under SDCL chapter 36-21A and ARSD article 20:69 for a period of one year beginning on the date of execution of this agreement;
- B. Mr. Welker shall pay an administrative fine in the amount of \$500.00 to the Commission by March 31, 2014;

C. Mr. Welker will pay for, attend, and successfully complete 15 hours of Commission approved courses in the following area of study: license law, agency, property issues and fiduciary duties; 3 hours in each of the mentioned five areas of study. Each course shall be an in-person classroom setting and provide written evidence of such compliance to the South Dakota Real Estate Commission by July 31, 2014. The required course work will not count toward Mr. Welker's continuing education requirement for maintaining his license and cannot be completed at the South Dakota School of Real Estate; and

D. Mr. Welker agrees that if he fails to comply with 14(b) or 14(c) of this Agreement, his license shall be immediately suspended until he has fully complied with both requirements

Motion carried by roll call vote of 4 to 1.

Compliance officer Michelle Metzinger joined the meeting at 11:54 a.m.

Compliance officer Michelle Metzinger updated the Commission on a transaction that is being reviewed by Commission staff.

Compliance officer Michelle Metzinger left the meeting at 12:04 p.m.

Motion by Bonde, seconded by Nelson, to enter into executive session at 12:04 p.m. pursuant to SDCL 1-25-2(3). Motion carried by roll call vote.

Commission reconvened to regular session at 12:15 p.m.

Motion by Krogman, seconded by Bonde, to file a formal complaint against a licensee. Motion carried by roll call vote.

Discussion was held on changing the current internal complaint process.

Compliance officer Michelle Metzinger rejoined the meeting at 12:40 p.m.

Legal counsel suggested the use of a recorder for conversations and investigations. The Commission instructed the staff to proceed with the use of recorders.

Discussion was held on the use of Assurance of Voluntary Compliances vs. Consent Agreements. Motion by Nelson, seconded by Bonde, to move that we change the current citation program to discontinue the use of Stipulations and Assurances of Voluntary Compliances and replace them with Consent Agreements and change the fine from \$50 to a minimum fine of \$100. Motion carried by roll call vote.

Discussion was held on advertising. The Commission tabled the discussion to the next meeting to determine if changes need to be made.

Discussion was held as to a refund policy for various fees. The Commission tabled the discussion to the next meeting.

Compliance officer Brian Jackson briefed the Commission on the results of the survey he had sent to 65 brokers to try and obtain an understanding of our licensee's practice of agency and to get a feel of the industry's acceptance of possible changes being thought about by the commission's form task force.

Education director Karen Callahan joined the meeting at 2:41 p.m.

Education director Karen Callahan updated the Commission on the number of attendees and the costs associated with the caravans. Discussion was held on the future of the education caravans.

Education director Karen Callahan and compliance officer Michelle Metzinger left the meeting at 3:11 a.m.

Commission member Paula Lewis and compliance officer Brian Jackson gave a brief report on the ARELLO Conference and Investigator Workshop.

The next regular meeting of the Commission will be held March 12 & 13, 2014 in Pierre.

There being no further business, motion by Bonde, seconded by Lewis, to adjourn at 3:19 p.m. Motion carried

Minutes submitted by Norma Schilling

Mark Wahlstrom, Chairman

Melissa Miller, Executive Director