



SOUTH DAKOTA REAL ESTATE COMMISSION  
MARCH 14 & 15, 2007  
GOVERNOR'S INN  
700 WEST SIOUX AVE  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:30 p.m. on March 14, 2007 in the Kneip Room of the Governor's Inn, Pierre, SD. Present for the meeting were Vice Chair Eileen Fischer and commission members Dennis Eisnach and Paula Lewis. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling. Commission Chairman Brian Jackson and commission member Charles Larkin were absent from the meeting on March 14, 2007.

Motion by Eisnach, second by Lewis, to approve the minutes of the January 31 & February 1, 2007 meeting. Motion carried.

Motion by Eisnach, second by Lewis, to accept the January & February 2007 financial reports. Motion carried.

The executive director informed the commission on the upcoming National Land Council Conference in Nashville, TN May 16-19, 2007 and the REEA Conference in St. Louis, MO June 9-13, 2007. Motion by Eisnach, second by Lewis, to request the attendance of two commission members and the executive director at the National Land Council Conference and the attendance of the education director and licensing director at the REEA Conference. Motion carried.

Hearing Officer Julie Johnson at 12:55 p.m. convened the formal hearing on complaint #2007-017, The Rental Connection/Lloyd/Iverson/Henderson. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Carla Bachand and defendants Scott Lloyd, Jeff Iverson and Scott Lloyd. The hearing closed at 1:21 p.m.

Motion by Lewis, second by Eisnach, that the commission finds The Rental Connection, Scott Lloyd, Jeff Iverson and Scott Henderson in violation of SDCL 36-21A-119, ARSD 20:69:15:02, ARSD 20:69:15:08.01 and ARSD 20:69:15:10 and that they pay a monetary penalty of \$500, costs of the hearing, Iverson and Lloyd be required to attend a continuing education course in real estate office management and that each of the defendants be advised that any late renewal of their licenses or late filing of their errors and omission insurance coverage in the future would result in license suspension. Motion carried.

Discussion was held on future instructor training. Motion by Lewis, second by Eisnach, to start the procedure to hold a course development workshop and an instructor development workshop. Motion carried.

Chair Eileen Fischer convened the hearing on the application for conditional approval of Natalie Butler at 1:55 p.m. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, applicant Natalie Butler and Ritch Price. The hearing closed at 2:10 p.m.

Motion by Lewis, second by Eisnach, to enter into executive session at 2:11 p.m. Motion carried.

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Motion by Lewis, second by Eisnach, to come out of executive session at 2:15 p.m. Motion carried.

Motion by Lewis, second by Eisnach, to approval the conditional approval application of Natalie Butler. Motion carried.

Discussion was held on the request of the Real Estate Education Association to waive any further professional requirements on instructor requirements for holders of the Distinguished Real Estate Instructor designation. The commission will take this into consideration for future legislation or rule changes.

Discussion was held on the chairperson serving for more than one year.

Discussion was held on advertising. The executive director was instructed to write an article for the newsletter instructing licensees to make sure the public is seeing correct information on a listing.

Hearing Officer Julie Johnson at 2:50 p.m. convened the formal hearing on complaint #2007-018, SDREC vs. Big West Real Estate/Fritz. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and court reporter Carla Bachand. Defendant Tyler Fritz failed to appear for the hearing. The hearing closed at 3:02 p.m.

Angela Madsen, auditor/investigator for the commission, joined the meeting at 3:00 p.m.

Motion by Lewis, second by Eisnach, to enter into executive session at 3:05 p.m. Motion carried.

Motion by Eisnach, second by Lewis, to come out of executive session at 3:25 p.m. Motion carried.

Complaint #2007-015, Eikamp vs. Mickelson REALTORS, Inc./Mickelson/Schweitzer. Motion by Lewis, second by Eisnach, to dismiss the complaint and have the executive director write a letter of admonishment regarding there being no proof of a purchase agreement being presented to a client. Motion carried.

Motion by Eisnach, second by Lewis, that the commission finds Tyler Fritz in violation of SDCL 36-21A-71(1), SDCL 36-21A-119, ARSD 20:60:15:02 and ARSD 20:69:15:08.01 and that the license of Tyler Fritz be revoked, pay a penalty of \$2,500 and reimburse Commission costs. Motion carried.

Complaint #2007-008, Meiers vs. Harlan Ferwerda. Legal counsel was instructed to contact the attorneys for Meiers and Ferwerda as to the status of the civil action.

The commission reviewed the revised condominium application and the new substitute public report from the specialized real estate advisory group.

Deputy Secretary David Wiest joined the meeting at 3:55 p.m. for an introduction of the commission. The executive director and commission briefed Deputy Secretary Wiest on the commission's responsibilities. Deputy Secretary Wiest left the meeting at 4:25 p.m.

Motion by Eisnach, second by Lewis, to adopt the revised condominium application and new substitute public report. Motion carried.

March minutes, page 3

The commission reviewed the faxed letter from Paul Werner that was received in the afternoon of March 14, 2007 stating he would not be appearing for hearing on his experience waiver. The commission instructed legal counsel to send Mr. Werner a letter to dismiss the appeal due to his abandonment of the hearing.

The meeting recessed at 4:40 p.m. and reconvened at 8:30 a.m. on March 15, 2007 with all commission members present.

Further discussion was held on chairperson serving for more than one year. It was the consensus that a commission member could be re-elected for another year as chairperson.

Motion by Larkin, second by Lewis, to enter into executive session at 8:45 a.m. Motion carried.

Karen Callahan, education director, joined the meeting at 9:20 a.m.

Motion by Eisnach, second by Larkin, to come out of executive session at 10:00 p.m. Motion carried.

Motion by Larkin, second by Eisnach, to file a formal complaint against Black Hills School of Real Estate, Dan McCann, Kenneth Smith & Janet Van Nuys. Motion carried.

Proposed Findings of Fact, Conclusions of Law and Decision on Darrell Leamy. Motion by Eisnach, second by Fischer, to adopt the proposed decision of Hearing Officer Julie Johnson to revoke the license of Darrell Leamy, not reinstate any license for him, he pay a monetary penalty of \$2,500 and reimburse costs to the commission. Motion carried.

Proposed Findings of Fact, Conclusions of Law and Decision on Steven Folk. Motion by Lewis, second by Fischer, to adopt the proposed decision of Hearing Officer Julie Johnson to Steven Folk pay a monetary penalty of \$500 and reimburse costs to the commission. Motion carried.

Proposed Findings of Fact, Conclusions of Law and Decision on Faith Goodine. Motion by Eisnach, second by Fischer, to amend the proposed decision of Hearing Office Julie Johnson to a six month suspension of the license of Faith Goodine with the 6 month suspension stayed, 6 hours of continuing education in agency and 6 hours continuing education in license law and reimbursement of costs to the commission. Motion carried.

Motion by Eisnach, second by Fischer, to adopt the prepared Findings of Fact, Conclusions of Law & Decision of Hearing Officer Julie Johnson on The Rental Connection, Scott Lloyd, Jeff Iverson and Scott Henderson. Motion carried.

The executive director informed the commission of a letter she had received for the SD Real Estate Commission to join the National Auctioneer License Law Officials Association. Motion by Larkin, second by Lewis, to have the SD Real Estate Commission join the National Auctioneer License Law Officials Association. Motion carried.

The executive director informed the commission that Applied Measurement Professionals is scheduled to attend the May meeting.

The executive director informed the commission on G W Equity conducting business in South Dakota. Following discussion, legal counsel was instructed to file a cease and desist on G W Equity.

The next meeting of the commission will be held May 9 & 10, 2007 in Pierre.  
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There being no further business, Eisnach moved, seconded by Larkin, to adjourn at 11:05 a.m. Motion carried.

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Brian Jackson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota

Real Estate Commission meeting held on March 14 & 15, 2007.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
JANUARY 31 & FEBRUARY 1, 2007  
HOLIDAY INN EXPRESS  
110 EAST STANLEY  
FORT PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:40 p.m. on January 31, 2007 in Conference Room A of the Holiday Inn Express, Fort Pierre, SD. Present for the meeting were Chairman Brian Jackson and commission members Dennis Eisnach, Eileen Fischer and Paula Lewis. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and auditors Angela Madsen and Michelle Metzinger. Commission member Charles Larkin was absent for the meeting on January 31, 2007.

Motion by Eisnach, second by Fischer, to approve the minutes of the December 6 & 7, 2007 meeting. Motion carried.

Motion by Eisnach, second by Fischer, to accept the financial reports for November & December 2006. Motion carried.

Hearing Officer Julie Johnson at 12:45 p.m. convened the formal hearing on complaint #2007-007, SDREC vs. Darrell Leamy. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Leslie Hicks, defendant Darrell Leamy and witnesses Terry Cameron and Angela Madsen. The hearing closed at 2:14 p.m.

Hearing Officer Julie Johnson at 2:25 p.m. convened the formal hearing on complaint #2006-019, SDREC vs. Steven Folk. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Leslie Hicks, defendant Steven Folk and his attorney Jack Magee and witnesses Carol Fuller and Sharon Stoltenberg. The hearing closed at 4:13 p.m.

Hearing Officer Julie Johnson at 4:25 p.m. convened the formal hearing on complaint #2007-001, SDREC vs. Faith Goodine. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Leslie Hicks, defendant Faith Goodine and her attorney Jeff Collins and witnesses Ken Thomas and Jerry Casteel. The hearing closed at 5:31 p.m.

The meeting recessed at 5:35 p.m. and reconvened at 8:00 a.m. on February 1, 2007 with commission member Charles Larkin present.

Motion by Larkin, second by Eisnach, to enter into executive session at 8:05 a.m. to discuss personnel issues and review complaints. Motion carried.

Motion by Eisnach, second by Larkin, to come out of executive session at 9:35 p.m. Motion carried.

The Commission reviewed the draft letter from the executive director regarding the concerns from the Government Operations & Audit Committee.

Dave Anderson of Dave Anderson School of Real Estate, Barton Hacker of the REALTORS Association Of The Sioux Empire and Karen Callahan, education director joined the meeting at 10:00 a.m.  
January/February minutes, page 2

Chairman Brian Jackson convened the hearing on the renewal application of Patricia Horlock at 10:10 a.m. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and applicant Patricia Horlock. The hearing closed at 10:20 a.m. Motion by Larkin, second by Eisnach, to reinstate the broker associate license of Patricia Horlock. Motion carried.

Paul Werner appeared before the commission to request a waiver of the experience requirement to obtain a responsible broker's license to open his own office. Mr. Werner left the meeting at 11:46 a.m.

Chairman Brian Jackson convened the hearing on the application appeal of Mark Perleberg at 11:55 a.m. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and applicant Mark Perleberg. The hearing closed at 12:02 p.m. Motion by Eisnach, second by Fischer, to approve the residential rental agent application of Mark Perleberg. Motion carried.

The Commission reviewed the conditional approval application of John Snow. Motion by Larkin, second by Eisnach, to approve the condition approval application of John Snow. Motion carried.

Lora Hubbel appeared before the commission to request an exam waiver. Ms. Hubbel left the meeting at 12:35 p.m.

The executive director was instructed to write a letter to Lora Hubbel to let her know that they understand her frustration at failing to pass the broker simulation exam but it is the consensus of the commission that they do not have the authority to waive the exam.

Commission member Dennis Eisnach left the meeting at 12:40 p.m.

Discussion was held on the simulation exam with education director Karen Callahan offering statistics on candidates that have taken the new exam.

Commission member Eileen Fischer requested that the term of the chairman position be added to the agenda for discussion at the next meeting.

The executive director informed the Commission that legal counsel will be filing a complaint on licensees that are claiming residency in another state when they are residents of South Dakota. Legal counsel will also be filing complaints against licensees that failed to renew licenses, errors and omissions insurance or meet the education requirements before 1/1/07 and continued to practice real estate after that date.

The executive director informed the Commission that the commission office is in need of upgrading computers. She will be checking to see if the State will be changing to Vista in the near future before ordering new computers.

The discussion on the material from the Real Estate Educators Association was tabled to the next meeting.

Complaint #2007-003, Ziolkowski vs. The Real Estate Center of Spearfish/Garrett & Bradeen Auction & Real Estate & The Real Estate Center of Custer/Bradeen. Motion by Lewis, second by Larkin, to dismiss the complaint with a letter of reprimand to Jeff Garrett. Motion carried.

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Complaint #2007-010, Gustafson vs. Best Choice GMAC Real Estate/Westlund. Motion by Fischer, second by Lewis, to dismiss the complaint with a letter of reprimand. Motion carried.

Complaint #2007-011, McKown vs. Coldwell Banker Action Realty/Stahl. Motion by Larkin, second by Fischer, to dismiss the complaint. Motion carried.

Complaint #2007-012, Olsen vs. Raben Real Estate, Inc./Randolph. Motion by Fischer, second by Larkin, to move to a formal hearing. Motion carried.

Motion by Fischer, second by Larkin, to enter into executive session at 1:10 p.m. Motion carried.

Motion by Lewis, second by Larkin, to come out of executive session at 1:14 p.m. Motion carried.

Motion by Fischer, second by Larkin, to deny the experience waiver request of Paul Werner. Motion carried.

The next meeting of the commission will be held March 14 & 15, 2007 in Pierre.

There being no further business, Fischer moved, seconded by Lewis, to adjourn at 1:17 p.m. Motion carried.

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Brian Jackson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on January 31 & February 1, 2007.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
DECEMBER 6 & 7, 2006  
GOVERNOR'S INN  
700 WEST SIOUX AVE  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:35 p.m. on December 6, 2006 in the Kneip Room of the Governor's Inn, Pierre, SD. Present for the meeting were Chairman Brian Jackson and commission members Charles Larkin and Paula Lewis. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and auditors Angela Madsen and Michelle Metzinger. Tim Weber, Deputy Secretary of the Department of Revenue was present as an observer. Commission members Dennis Eisnach and Eileen Fischer were absent from the meeting.

Motion by Larkin, second by Lewis, to approve the minutes of the October 11 & 12, 2006 meeting. Motion carried.

Motion by Larkin, second by Lewis, to accept the financial report for October 2006. Motion carried.

The executive director informed the commission that she had a request to reinstate the lapsed license of Robert Williams who did not renew his license due to military service. Motion by Larkin, second by Lewis, to reinstate the license upon payment of the renewal fee, late fee and a copy of his military discharge papers. Motion carried.

Discussion was held on travel. Motion by Lewis, second by Jackson, to request the attendance of commission member Larkin at the ARELLO Board of Directors meeting January 5-6, 2007 in San Diego, CA. Motion carried. Motion by Larkin, second by Lewis, to request the attendance of the commission members and the executive director at the ARELLO Midyear meeting April 26-28, 2007 in Banff, Alberta, Canada. Motion carried.

Motion by Larkin, second by Lewis, to enter into executive session at 1:00 p.m. to review complaints. Motion carried.

Motion by Larkin, to come out of executive session at 2:00 p.m. Motion carried.

Nicholas Anotonie appeared before the commission to request a waiver of the experience and education to obtain a responsible broker's license to open his own office. Mr. Antonie left the meeting at 2:25 p.m.

A telephonic meeting was held with Chrysta Carter on her request to waive the education, exam and experience to obtain a broker's license because of her law degree. Following discussion, Lewis moved, seconded by Larkin, to deny the request of Ms. Carter since she is not admitted to practice in South Dakota and that she must qualify for a license according to the statutes. Motion carried.

#2007-003, Ziolkowski vs. The Real Estate Center of Spearfish/Garrett & Bradeen Auction & Real Estate & The Real Estate Center of Custer/Bradeen. Motion by Lewis, second by Larkin, to hold an informal consultation. Motion carried.

#2007-006, Cook vs. Hills Property Management/Stewart. Motion by Lewis, second by Larkin, to dismiss the complaint. Motion carried.

#2007-007, Cameron vs. Darrell Leamy. Motion by Lewis, second by Larkin, to move to a formal hearing. Motion carried.

December minutes, page 2

#2007-008, Meiers vs. Anderson Realty. L.L.C./Ferwerda. Motion by Larkin, second by Lewis, to dismiss the complaint against Anderson Realty, L.L.C. and defer any action on Ferwerda until civil action is resolved. Motion carried.

#2007-009, Bradbury/Ulmer vs. Century 21 Stevens and Associates, Inc./Darla Stevens. Motion by Larkin, second by Lewis, to dismiss the complaint. Motion carried.

Motion by Larkin to enter into executive session at 3:20 p.m. Motion carried.

The informal consultation on complaint #2007-001, Thomas vs. Castell Auction & Real Estate/Goodine was convened at 3:20 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and defendants Faith Goodine and Jerry Casteel. Complainant Ken Thomas appeared telephonically. The consultation conclude at 4:40 p.m.

Motion by Larkin, second by Lewis, to come out of executive session at 5:00 p.m. Motion carried.

Motion by Lewis, second by Larkin, to approve the request of Nicholas Antonie upon proof of successful completion of the responsible broker course. Motion carried.

Motion by Lewis, second by Larkin, to dismiss the complaint against Casteel Auction and Real Estate and move to a formal hearing on Faith Goodine. Motion carried.

The meeting recessed at 5:05 p.m. and reconvened at 8:35 a.m. on December 7, 2006.

Karen Callahan, the education director, joined the meeting for discussion on the broker's exam. Karen shared reports on the pass/fail statistics on the broker's exam since the commission started administering the simulation exam. The commission suggested that a meeting be held with the instructors at a future commission meeting. Karen will also check with other states to see if they publish the passing results of prelicensing schools. Karen left the meeting at 9:25 a.m.

The executive director shared the results she had gathered from the advertising survey that she had sent out to the real estate offices. The commission will review the results and discuss the survey at the next meeting. The executive director was instructed to check with franchises on their requirements for advertising.

The executive director informed the commission on a request for a change of company ownership from Ka Squire. The commission instructed the executive director to have Mr. Squire to submit a more detailed explanation of his plans for company ownership.

Discussion was held on the meeting the executive director had with the Government Operations & Audit Committee. The executive director was instructed to write a letter to the committee informing them that the commission is taking their request seriously and that the commission will be discussing the committee's concerns at the next meeting when the full commission meets.

The next meeting of the commission will be held January 31 & February 1, 2007 in Pierre.

December minutes, page 3

There being no further business, Larkin moved, seconded by Lewis, to adjourn at 10:40 a.m. Motion carried.

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Brian Jackson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on December 6 & 7, 2006.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
OCTOBER 11 & 12, 2006  
HOLIDAY INN EXPRESS  
110 EAST STANLEY ROAD  
FORT PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:00 p.m. on October 11, 2006 in Conference Room A of the Holiday Inn Express, Fort Pierre, SD. Present for the meeting were Chairman Brian Jackson and commission members Dennis Eisnach, Eileen Fischer, Charles Larkin and Paula Lewis. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling. Tim Weber, Deputy Secretary of the Department of Revenue and Regulation and Angela Madsen were present for the meeting on October 11, 2006 as observers.

The executive director introduced Angela Madsen, the new auditor/investigator based in Sioux Falls, to the commission.

Motion by Eisnach, second by Larkin, to approve the minutes of the August 16 & 17, 2006 meeting. Motion carried.

Motion by Larkin, second by Eisnach, to accept the financial reports for August & September 2006. Motion carried.



Discussion was held on the 2005 & 2006 Fiscal Year audit. The executive director noted that, once again, the only exception to the audit was internal control due to the size of the commission staff. Discussion was held on ways to help with internal control.

Motion by Larkin, second by Fischer, to enter into executive session at 1:15 p.m. Motion carried.

Motion by Larkin, second by Fischer, to come out of executive session at 1:25 p.m. Motion carried.

Chairman Brian Jackson convened the hearing on the application appeal of Brenda Nygaard at 1:26 p.m. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, applicant Brenda Nygaard and her mother Karen Thompson. The hearing closed at 1:40 p.m.

Motion by Eisnach, second by Larkin, to enter into executive session at 1:41 p.m. Motion carried.

Motion by Larkin, second by Eisnach, to come out of executive session at 1:45 p.m. Motion carried.

Motion by Fischer, second by Eisnach, to approve the application of Brenda Nygaard. Motion carried.

The executive director and commission member Charles Larkin gave a report on the Annual ARELLO Conference that they attended in San Antonio, Texas.

Commission members Dennis Eisnach, Eileen Fischer and Paula Lewis gave reports on the Commissioner College that they attended in San Antonio, Texas in conjunction with the Annual ARELLO Conference.

October minutes, page 2

Discussion was held on complaint #2006-019, Fuller vs. Assist 2 Sell Buyers & Sellers Realty/Folk regarding the informal consultation that was to be held at this meeting. Motion by Eisnach, second by Larkin, to move to a formal hearing. Motion carried.

Legal counsel updated the Commission on Brad Hall's request for a Declaratory Ruling.

The executive director informed the Commission that she had received a request from AMP for one or two individuals to help in writing questions for the salesperson's exam. Doris Holden was suggested as a name to submit to AMP for this project.

The executive director and Commission Member Eileen Fischer reported on their meeting with AMP held in San Antonio, Texas.

Hearing Officer Julie Johnson at 3:45 p.m. convened the formal hearing on complaint #2006-015, SDREC vs. Jeffery Dougan. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling. Defendant Jeffery Dougan failed to appear for the hearing. Following testimony, Hearing Officer Julie Johnson gave a proposed decision to the revocation of the license of Jeffery Dougan and that he pay a penalty of \$2,500 and costs to the Commission. Motion by Eisnach, second by Larkin, to adopt the proposed decision of Hearing Officer Julie Johnson. Motion carried. The hearing closed at 3:53 p.m.

Motion by Larkin, second by Fischer, to enter into executive session a 3:58 p.m. to review complaints. Motion carried.

Motion by Larkin, second by Eisnach, to come out of executive session at 4:10 p.m. Motion carried.

#2006-020, Myers vs. Coldwell Banker Action Realty/Weber. Motion by Larkin, second by Lewis, to dismiss the

complaint. Motion carried.

2007-001, Thomas vs. Casteel Auction & Real Estate/Goodine. Motion by Eisnach, second by Fischer, to hold an informal consultation. Motion carried.

2007-002, Raml vs. Century 21 Fischer Rounds & Associates/Robinson/Hockett & 2007-004, Baldwin vs. Mitchell Realty, LLC/Jarding. Motion by Larkin, second by Eisnach, to dismiss the complaints. Motion carried with Commission Member Fischer recusing herself.

Discussion was held on criminal background and credit checks. The executive director shared a survey that had been done by the North Dakota Real Estate Commission on background checks. The executive director will conduct further research into criminal background and credit checks.

The meeting recessed at 4:35 p.m. and reconvened at 8:30 a.m. on October 12, 2006.

The executive director requested guidance on processing the registration of a 2-unit condominium project on property that she and a licensee have owned for several years. Following discussion, the commission instructed the executive director to have auditor Michelle Metzinger review the registration for compliance. Commission Chairman Jackson will sign off on the project, provided the registration is in full compliance.

Discussion was held on advertising. The executive director will do further research on advertising guidelines in other states.

October minutes, page 3

The executive director informed the Commission on a drug related matter involving a real estate licensee. The Commission tabled this until the next meeting.

Discussion was held on Judicial Accountability Initiative Law that will be on the ballot in November.

Motion by Eisnach, second by Larkin, to enter into executive session at 9:05 a.m. Motion carried.

Jim Robbennolt left the meeting at 9:05 a.m.

Motion by Eisnach, second by Lewis, to come out of executive session at 9:45 a.m. Motion carried.

Discussion was held on licensees acting as a buyer's agents and mortgage brokers in real estate transactions.

The next meeting of the commission will be held December 6 & 7, 2006 in Pierre.

There being no further business, Eisnach moved, seconded by Lewis, to adjourn at 10:00 a.m. Motion carried.

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Brian Jackson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on October 11 & 12, 2006.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
AUGUST 16 & 17, 2006  
GOVERNOR'S INN  
700 WEST SIOUX AVE  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:00 p.m. on August 16, 2006 in the Kneip Room of the Governor's Inn, Pierre, SD. Present for the meeting were Chairman Brian Jackson and commission members Dennis Eisnach, Eileen Fischer, Charles Larkin and Paula Lewis. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling.

Motion by Larkin, second by Eisnach, to approve the minutes of the June 28 & 29, 2006 meeting. Motion carried.

Motion by Larkin, second by Lewis, to accept the financial reports for June & July 2006. Motion carried.

The applicant for a conditional approval failed to appear for a hearing. No hearing was held.

Motion by Larkin, second by Fischer, to enter into executive session at 1:15 p.m. Motion carried.

Motion by Eisnach, second by Larkin, to come out of executive session at 2:00 p.m. Motion carried.

Bob Mercer, a newspaper reporter, joined the meeting at 2:05 p.m.

Hearing Officer Julie Johnson at 2:10 p.m. convened the formal hearing on an Order to Show Cause with Mel Dreyer and Coldwell Banker Lewis-Kirkeby-Hall Real Estate, Inc. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Lynne Ormesher, defendants Mel Dreyer and his attorney Brian Hagg, Dan McFarland, broker/owner of Coldwell Banker and Dave Mortimer, sales manager for Coldwell Banker. Along with the defendants, Karen Callahan with the Real Estate Commission, was called as a witness. The hearing closed at 4:15 p.m.

Motion by Larkin, second by Fischer, to enter into executive session at 4:25 p.m. Motion carried.

Motion by Eisnach, second by Larkin, to come out of executive session at 5:00 p.m. Motion carried.

Motion by Larkin, second by Eisnach, to order an extension to the suspension of Mel Dreyer's license until September 1, 2006 and that Coldwell Banker Lewis-Kirkeby-Hall Real Estate reimburse the commission for costs and they include an internet policy in their office policy. Motion carried with Lewis recusing herself.

Discussion was held on team advertising with Dan McFarland and Dave Mortimer participating. A task force will be formed to work on advertising guidelines.

Dan McFarland & Dave Mortimer left the meeting at 5:50 p.m.

Motion by Larkin, second by Fischer, to adopt the proposed decision of Hearing Officer Hillary Brady to the revocation of the license of Diane Byrd based on the fact that she was

licensed at the time the complaint was filed and reimburse costs to the commission. Motion carried.

Motion by Eisnach, second by Fischer, to amend the proposed decision of Hearing Officer Hillary Brady on Ron Bradeen and that he pay a penalty of \$2,500 and reimburse costs to the Commission within 30 days of the date of the final order, provide the Commission access to his criminal history for the next two years, that he continue his counseling regarding his behavioral problems as recommended and should he fail to do any of the above that his license be revoked without further hearing. Motion carried.

Motion by Larkin, second by Lewis, to adopt the proposed decision of Hearing Officer Hillary Brady on Thomas Costello III, broker from Newell, South Dakota, to the revocation of his license and reimbursement of costs to the Commission. Motion carried.

The meeting recessed at 6:00 p.m. and reconvened at 8:35 a.m. on August 17, 2006.

Bob Mercer, a newspaper reporter, was not present for the meeting on August 17, 2006.

The executive director informed the commission of an investigator seminar sponsored by the Council on Licensure, Enforcement and Regulation, September 25-27, 2006 in Des Moines, IA. Motion by Fischer, second by Larkin, to send the two investigators to this seminar. Motion carried.

Motion by Eisnach, second by Larkin, to enter into executive session at 8:40 a.m. to review complaints. Motion carried.

Motion by Eisnach, second by Larkin, to come out of executive session at 9:00 a.m. Motion carried.

#2006-017 Leibowitz vs. The Real Estate Center of Lead-Deadwood/Johnson. Motion by Lewis, second by Eisnach, to dismiss the complaint. Motion Carried.

#2006-018 Heines/Seljeskog/Seljeskog vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Lester. Motion by Larkin, second by Fischer, to dismiss the complaint. Motion carried.

#2006-019 Fuller vs. Assist 2 Sell Buyers & Sellers Realty/Folk. Motion by Lewis, second by Larkin, to hold an informal consultation. Motion carried.

The executive director informed the commission on the individuals who will serve on the specialized real estate advisory group.

Motion by Larkin, second by Eisnach, to enter into executive session at 9:04 a.m. Motion carried.

The informal consultation on complaint #2006-012, Price/Pietruszkiewicz was convened at 9:05 a.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, Rich Price, Les Pietruszkiewicz and Roger Parham. The consultation concluded at 9:50 a.m.

Motion by Eisnach, second by Larkin, to come out of executive session at 10:20 a.m. Motion carried.

Motion by Fischer, second by Lewis, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Les Pietruszkiewicz to the completion of 6 hours of education

August minutes, page 3

in agency and 4 hours in ethics and a penalty of \$250 and with Rich Price to the completion of 6 hours of education in license law and 4 hours in ethics and a penalty of \$250. All education hours are above the required 24 hours and are to be completed in a classroom setting. Motion carried.

Discussion was held on requiring background checks for new licensees. The executive director was instructed to do some checking with other states on their licensing requirements and also the cost of background checks.

The executive director showed a video that she had received from the Oklahoma Real Estate Commission on actions of commission members.

Discussion was held on whether a credit card payment can be made for earnest money. The executive director will check with other states to see if they allow this type of payment to be used as earnest money.

Motion by Eisnach, second by Larkin, to enter into executive session for personnel reasons at 11:00 a.m. Motion carried.

Legal counsel Jim Robbennolt left the meeting at 11:00 a.m.

Motion by Larkin, second by Eisnach, to come out of executive session at 11:14 a.m. Motion carried.

The next meeting of the commission will be held October 11 & 12, 2006 in Pierre.

There being no further business Larkin moved, seconded by Eisnach, to adjourn at 11:15 a.m. Motion carried.

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Brian Jackson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on August 16 & 17, 2006.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
JUNE 28 & 29, 2006  
GOVERNOR'S INN  
700 WEST SIOUX AVE  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:05 p.m. on June 28, 2006 in the Kneip Room of the Governor's Inn, Pierre, SD. Present for the meeting were Chairman Charles Larkin and commission members Dennis Eisnach, Eileen Fischer, Brian Jackson and Paula Lewis. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling. Tim Weber, Deputy Secretary of the Department of Revenue and Regulation was present as an observer.

Motion by Eisnach, second by Jackson, to approve the minutes of the May 17 & 18, 2006 meeting. Motion carried.

Motion by Lewis, second by Eisnach, to accept the financial report for May 2006. Motion carried.

Motion by Eisnach, second by Jackson, to adopt the proposed budget for FY 2007. Motion carried.

The executive director informed the Commission the meeting scheduled for February 7 & 8, 2007 is being changed to January 31 & February 1, 2007 since the REALTORS will be meeting in Pierre at that time.

The executive director informed the Commission the ND/SD REALTORS Convention will be held September 13-15, 2006 in Fargo, ND. Motion by Eisnach, second by Jackson, to request the attendance of one commission member and the executive director at the Convention. Motion carried.

Discussion was held on a Commercial Broker Advisory Group. The executive director was instructed to present a list of those she would like on the group at the next meeting.

Maureen Rotterdam failed to appear for a hearing on a conditional approval.

Hearing Office Hillary Brady at 1:35 p.m. convened the formal hearing on complaint #2005-023, SDREC vs. Diane Byrd. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Cheryl Hook, defendant Diane Byrd, defendant's attorney David Larsen and witnesses Ron Fuller, Marty Wilcox and Dee Thompson. The hearing closed at 2:45 p.m.

Hearing Office Hillary Brady at 3:00 p.m. convened the formal hearing on complaint #2006-011, SDREC vs. Ron Bradeen. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Cheryl Hook, defendant Ron Bradeen, defendant's attorney Neil Fulton and witness Dr. Dewey Ertz. The hearing closed at 4:40 p.m.

Hearing Officer Hillary Brady at 4:50 p.m. convened the formal hearing on complaint #2006-010, SDREC vs. Thomas Costello III. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Cheryl Hook, defendant Thomas Costello III, defendant's attorney Patrick Duffy and witness Sherry Bren. The hearing closed at 5:13 p.m.

June minutes, page 2

The meeting recessed at 5:20 p.m. and reconvened at 8:30 a.m. on June 29, 2006

Motion by Jackson, second by Fischer, to enter into executive session at 8:35 a.m. to review complaints. Motion carried

Motion by Jackson, second by Eisnach, to come out of executive session at 10:40 a.m. Motion carried.

Motion by Eisnach, second by Fischer, to deny the conditional application of Maureen Rotterdam. Motion carried.

Complaint #2006-012, Meyer vs. Exit Realty Group, Inc./Price. Motion by Eisnach, second by Fischer, to hold an informal consultation. Motion carried.

Complaint #2006-013, Hart vs. Coldwell Banker Select/Norquist/Garry. Motion by Fischer, second by Jackson, to dismiss the complaint. Motion carried.

Complaint #2006-014, Klein vs. Century 21 Investment REALTORS/Mack. Motion by Eisnach, second by Jackson, to dismiss the complaint and have legal counsel write a letter to complainant. Motion carried.

Complaint #2006-016, Albertsen vs. Premier Real Estate/Goddard/Peters. Motion by Eisnach, second by Jackson, to dismiss the complaint and have the executive director write a letter to the licensees regarding their paper work. Motion carried.

Findings of Fact, Conclusions of Law and Proposed Decision of Todd Lien. Motion by Jackson, second by Lewis, to adopt the proposed Decision of Todd Lien to the revocation of his license and amend the decision to a penalty of

\$2,500 and reimbursement of costs to the commission. Motion carried.

The Commission was informed that Mel Dreyer is still advertising real estate on the internet and has signs at various locations in the Rapid City area. Motion by Eismach, second by Fischer, to bring Mel Dreyer and Coldwell Banker Lewis-Kirkeby-Hall Real Estate before the Commission on a Motion to Show Cause hearing. Motion carried with Lewis recusing herself.

The executive director shared a letter from Ka Squire, along with her response, requesting that his son be allowed to own the real estate business without having broker's license. The commission concurred with her response to Ka Squire and took no further action.

Discussion was held on possibly doing full background checks on new licensees.

The executive director informed the commission that she will be working on proposed rules.

Legal counsel was instructed to see if Judge Kean has made a ruling on Brad Hall's petition for declaratory judgment.

The next meeting of the commission will be held August 16 & 17, 2006 in Pierre.

June minutes, page 3

There being no further business, Eismach moved, seconded by Jackson, to adjourn at 11:05 a.m. Motion carried.

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Charles Larkin, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on June 28 & 29, 2006.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
MAY 17 & 18, 2006  
HOLIDAY INN EXPRESS  
110 EAST STANLEY  
FORT PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:00 p.m. on May 17, 2006 in Conference Room A of the Holiday Inn Express, Fort Pierre, SD Present for the meeting were Chairman Charles Larkin and commission members Dennis Eismach, Eileen Fischer, Brian Jackson and Paula Lewis. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling. Tim Weber, Deputy Secretary of the Department of Revenue and Regulation was present as an observer.

Motion by Jackson, second by Fischer, to approve the minutes of the March 22 & 23, 2006 meeting. Motion carried.

Motion by Jackson, second by Fischer, to accept the financial reports for March and April 2006. Motion carried.

Future commission meetings were set for the following dates: June 28 & 29, 2006, August 16 & 17, 2006, October 11 & 12, 2006, December 6 & 7, 2006 and February 7 & 8, 2007.

Discussion was held on the summary suspension of Jeffery Dougan. Motion by Eisnach, second by Lewis, to ratify the actions of legal counsel and the executive director to the summary suspension of the license of Jeffery Dougan. Motion carried.

Chairman Charles Larkin convened the hearing on the application appeal of Timothy Bierschenk at 2:00 p.m. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, applicant Timothy Bierschenk and Mary Kay Swanson. The hearing closed at 2:24 p.m.

Motion by Eisnach, second by Jackson, to enter into executive session at 2:25 p.m. Motion carried.

Motion by Jackson, second by Fischer, to come out of executive session at 2:30 p.m. Motion carried.

Motion by Eisnach, second by Fischer, to grant a broker associate license to Timothy Bierschenk on the condition he provides the commission with the name of the broker he will be associating with and he informs the broker of his past offenses. Motion carried.

Discussion was held on the simulation broker exam. No action was taken at this time.

Hearing Officer Julie Johnson convened the formal hearing on complaint #2006-007, SDREC vs. Todd Lien. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and court reporter Lynne Ormesher. Defendant Todd Lien was not present for the hearing. Witnesses Shannon Hulzebos, Jane Larson and Lee Schelling appeared telephonically. The hearing closed at 3:50 p.m.

The commission continued discussion on the licensing exam. Motion by Eisnach, second by Fischer, to move forward with the contract with AMP for the simulation broker exam. Motion carried.

May minutes, page 2

Discussion was held on a commercial broker task force. The executive director informed the commission that she would like to change this to a specialized properties task force. The commission instructed the executive director to write a summary on the purpose of the task force and how many she would like on the task force and present it at the next meeting.

Motion by Jackson, second by Eisnach, to enter into executive session at 4:30 p.m. to review complaints. Motion carried.

Motion by Eisnach, second by Jackson, to come out of executive session at 4:50 p.m. Motion carried.

Complaint #2006-008, Hoogaveen vs. Coldwell Banker Select/Johnson/Zoellner. Motion by Eisnach, second by Fischer, to dismiss the complaint. Motion carried.

Complaint #2006-009, Welch vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate, Inc./Wendt. Motion by Lewis, second by Jackson, to dismiss the complaint. Motion carried.

Motion by Eisnach, second by Jackson, to enter into executive session at 4:55 p.m. to discuss personnel issues. Motion carried.



Motion by Jackson, second by Lewis, to come out of executive session at 4:58 p.m. Motion carried.

Motion by Eisnach, second by Jackson, to renew the legal contract of Jim Robbennolt. Motion carried.

The meeting recessed at 5:00 p.m. and reconvened at 8:35 a.m. on May 18, 2006. Motion carried.

Discussion was held on the upcoming ARELLO events. Motion by Fischer, second by Lewis, to request the attendance of two commission members and the executive director to the ARELLO District Meeting in Okalahoma City, Okalahoma July 20-22, 2006, three commission members to the Commissioners College in San Antonio, Texas September 24-27, 2006, and one commission member and the executive director to the ARELLO Annual Conference in San Antonio, Texas September 24-27, 2006. Motion carried.

Brad Hall appeared before the commission with a request for a declaratory ruling pertaining to SDCL 36-21A-6(5) and (6).

Election of officers was held with a motion by Larkin, second by Eisnach, to nominate Jackson for Chairman. Motion carried. Motion by Eisnach to nominate Fischer as Vice Chairman. Motion by Fischer to nominate Eisnach as Vice Chairman. Jackson seconded Eisnach motion for Fischer as Vice Chairman. Fischer motion for Eisnach as Vice Chairman died for lack of a second. Motion by Lewis, second by Eisnach, to call for the vote to nominate Fischer as Vice Chairman. Motion carried. Chairman Larkin called for the vote to nominate Fischer as vice chairman. Motion carried. Jackson is new Chairman and Fischer is new Vice Chairman for FY 2007.

May minutes, page 3

There being no further business, Eisnach moved, seconded by Jackson, to adjourn at 10:30 a.m. Motion carried.

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Charles Larkin, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on May 17 & 18, 2006.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
MARCH 22 & 23, 2006  
GOVERNOR'S INN  
700 WEST SIOUX AVE  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:05 p.m. on March 22, 2006 in the Kneip Room of the Governor's Inn, Pierre, SD. Present for the meeting were Chairman Charles Larkin and commission members Dennis Eisnach, Eileen Fischer, Brian Jackson and Paula Lewis. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling. Tim Weber, Deputy Director of the

Department of Revenue and Regulation was present as an observer.

Motion by Jackson, second by Fischer, to approve the minutes of the February 1, 2006 meeting. Motion carried.

Motion by Jackson, second by Fischer, to accept the financial reports for January and February 2006. Motion carried.

Motion by Fischer, second by Lewis, to enter into executive session at 1:10 p.m. to review application appeals. Motion carried.

Motion by Eisnach, second by Jackson, to come out of executive session at 1:35 p.m. Motion carried.

Motion by Lewis, second by Fischer, to approve the broker associate application of Daniel Island. Motion carried.

Motion by Fischer, second by Jackson, to approve the broker associate application of Alice Grimm. Motion carried.

Robert Christensen appeared before the commission with a request to waive the broker experience for him to become a responsible broker. Following discussion, Eisnach moved, seconded by Jackson, to grant the experience waiver for Robert Christensen to allow him to open an office in Presho, SD. Motion carried.

The executive director informed the commission of a stipulation that was signed with Mel Dreyer. Motion by Jackson, second by Eisnach, to accept the stipulation on Mel Dreyer. Motion carried.

Motion by Fischer, second by Lewis, to enter into executive session at 1:45 p.m. to review complaints. Motion carried.

Motion by Eisnach, second by Lewis, to come out of executive session at 2:10 p.m. Motion carried.

Complaint #2006-007, Faragher/Hulzebos vs. Todd Lien. Motion by Eisnach, second by Fischer, to move to a formal hearing. Motion carried.

Motion by Eisnach, second by Jackson, to have the executive director file a formal complaint against Ronald Bradeen. Motion carried.

Motion by Jackson, second by Fischer, to serve a summary suspension on Thomas Costello III and hold a formal hearing at the May 2006 meeting. Motion carried.

March minutes, page 2

The executive director informed the commission on the REEA Conference to be held in Las Vegas, NV June 11-14, 2006 and requested that she and Karen Callahan, the education director, be approved to attend. Motion by Jackson, second by Lewis, to submit a request for the executive director and education director to attend the REEA Conference. Motion carried.

Karen Callahan, the education director, and Larry Fabrey of Applied Measurement Professionals joined the commission meeting at 2:20 p.m.

Larry Fabrey of AMP gave a presentation on the simulated testing procedures.

The meeting recessed at 5:10 p.m. and reconvened at 9:00 a.m. on March 23, 2006.

Legal counsel Jim Robbennolt and Deputy Director Tim Weber were not present for the meeting.

Chairman Larkin presented Loren Anderson with a plaque for his years of service and dedication to the Real Estate

Commission.

Maria Sieck, Dave Anderson, Fred Preator, Dan McCann, Rick Evans, Cathy Ogdie, Dana Wulf, Gigi Gallagher and Loren Anderson, all prelicensing instructors, were present for a presentation by Larry Fabrey of AMP on the simulated testing procedures and an instructor meeting.

Commission members Dennis Eisnach and Brian Jackson left the meeting at 10:00 a.m.

The presentation and instructor meeting concluded at 12:15 p.m.

The next meeting of the commission will be held May 17 & 18, 2006 in Pierre.

There being no further business, Fischer moved, seconded by Lewis, to adjourn at 12:20 p.m. Motion carried.

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Charles Larkin, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on March 22 & 23, 2006.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
FEBRUARY 1, 2006  
GEORGE MICKELSON CRIMINAL JUSTICE CENTER  
1302 E HWY 14  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:10 p.m. on February 1, 2006 in the 2<sup>nd</sup> Floor Conference Room of the George Mickelson Criminal Justice Center, Pierre, SD. Present for the meeting were Vice Chairman Brian Jackson, and commission members Dennis Eisnach and Eileen Fischer. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling. Auditors Michelle Metzinger and Tim Buseman were present as observers.

Vice Chairman Brian Jackson convened the hearing on the application appeal of Mike Hendrickson at 1:15 p.m. Present for the hearing in addition to commission members Eisnach and Fischer were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and applicant Mike Hendrickson. The hearing closed at 1:20 p.m.

Motion by Eisnach, second by Fischer, to approve the broker associate application of Mike Hendrickson. Motion carried.

Discussion was held on a motion from the December 14 & 15, 2005 minutes pertaining to Marsha Salhi. Following discussion, Eisnach moved, seconded by Fischer, to reconsider the motion and to serve a formal complaint with the intent to revoke Marsha Salhi's broker's license after February 11, 2006 if Ms. Salhi fails to comply with the commission's order of February 11, 2005. Motion carried.

Motion by Eisnach, second by Fischer, to approve the minutes of the December 14 & 15, 2005 meeting as amended. Motion carried.

Chairman Charles Larkin and commission member Paula Lewis joined the meeting at 1:35 p.m.

Motion by Eisnach, second by Fischer, to accept the financial report for December 2005. Motion carried.

Motion by Jackson, second by Eisnach, to enter into executive session at 1:40 p.m. Motion carried.

The informal consultation on complaint #2005-027, Johnson vs. Premier Real Estate LTD/Jacobsen & Wade Druin was convened at 1:40 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbenolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, complainant Robert Johnson and respondents Sue French, Pamela Jacobsen and Wade Druin. The consultation concluded at 2:40 p.m.

Michelle Metzinger and Tim Buseman left the meeting at 2:45 p.m.

Motion by Eisnach, second by Jackson, to come out of executive session at 3:15 p.m. Motion carried.

Motion by Eisnach, second by Jackson, to a letter of reprimand to Wade Druin to the completion of 6 hours of continuing education in real estate contracts, 6 hours in real

February minutes, page 2

estate agency law and 6 hours in real estate license law before he can reinstate or reapply for a license and dismiss the complaint against Premier Real Estate LTD and Pamela Jacobsen with a letter of admonishment. Motion carried.

Motion by Eisnach, second by Jackson, to adopt the Findings of Fact, Conclusions of Law & Proposed Decision of Hillary Brady to the revocation of the broker's license of James Cadet Oxandaburu. Motion carried.

The executive director updated the commission on legislative bills affecting the Real Estate Commission.

Discussion was held on holding a meeting with AMP at the March 22 & 23, 2006 meeting since AMP was not available for this meeting.

The executive director was instructed to submit a request for the attendance of the executive director and one commission member to the ARELLO Midyear Meeting in Jacksonville, FL April 6-8, 2006 and a request for the attendance of the executive director and two commission members to the National Land Council Meeting in Sanibel Island, FL May 10-14, 2006.

Legal counsel informed the commission that he had received a call from John Nooney, attorney for Mel Dreyer, requesting an extension on his appeal date. Following discussion, the commission instructed legal counsel to notify Mr. Nooney that the commission has no jurisdiction on granting an extension.

The next meeting of the commission will be held March 22 & 23, 2006 in Pierre.

There being no further business, Eisnach moved, seconded by Jackson, to adjourn at 4:15 p.m. Motion carried.

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Charles Larkin, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on February 1, 2006.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
DECEMBER 14 & 15, 2005  
GOVERNOR'S INN  
700 WEST SIOUX  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:00 p.m. on December 14, 2005 in the Kneip Room of the Governor's Inn, Pierre, SD. Present for the meeting were Chairman Charles Larkin and Commission members Dennis Eisnach, Eileen Fischer and Paula Lewis. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling. Tim Weber, Deputy Director of the Department of Revenue and Regulation was present as an observer. Commission member Jackson was absent from the meeting on December 14, 2005.

Motion by Eisnach, second by Fischer, to approve the minutes of the October 19 & 20, 2005 meeting. Motion carried.

Motion by Eisnach, second by Fischer, to accept the financial reports for October and November 2005. Motion carried.

Discussion was held on corporations that are set up by a licensee for the sole purpose of receiving a commission. Motion by Eisnach, second by Fischer, to have legal counsel research the authority of the commission to register real estate teams under SDCL 36-21A-37 and SDCL 36-21A-46. Motion carried.

Motion by Eisnach, second by Fischer, to enter into executive session at 1:30 p.m. Motion carried.

Chairman Charles Larkin convened the hearing on the application for conditional approval of Jevon Reuter at 1:35 p.m. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and applicant Jevon Reuter. The hearing closed at 1:50 p.m.

Motion by Eisnach, second by Fischer, to come out of executive session at 1:55 p.m. Motion carried.

Motion by Eisnach, second by Fischer, to grant the request for conditional approval under the condition that Mr.

Reuter show proof to the Commission of a valid driver's license and adequate auto insurance for one year from the date of licensure. Motion carried.

Mary Andrews appeared before the commission to request a waiver of the responsible broker's course since the course is not available until March 2006. Motion by Eisnach, second by Fischer, to grant a waiver of the responsible broker course for Mary Andrews to open her own office with the understanding that she completes the course at the next available opportunity. Motion carried.

Richard Penrod appeared before the commission to request a waiver of experience to open his own real estate office. Motion by Eisnach, second by Fischer, to grant an experience waiver to Richard Penrod. Motion carried.

Chairman Charles Larkin convened the hearing on the application appeal of Paul Flogstad at 2:40 p.m. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Lynne Ormesher and witness Sherry Bren. Applicant Paul Flogstad failed to appear for the hearing. The hearing closed at 3:00 p.m.

December minutes, page 2

Motion by Eisnach, second by Fischer, to enter into executive session at 3:05 p.m. to review complaints. Motion carried.

Motion by Lewis, second by Eisnach, to come out of executive session at 3:25 p.m. Motion carried.

Complaint #2006-005, Arend vs. Coldwell Banker Folkerts Realty/Orr & Fischer, Rounds & Associates/Everson. Motion by Eisnach, second by Lewis, to dismiss the complaint. Motion carried with Commission member Fischer recusing herself from the complaint.

Hearing Office Hillary Brady at 3:35 p.m. convened the formal hearing on complaint #2005-030, SDREC vs. James Cadet Oxandaburu. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and court reporter Lynne Ormesher. Defendant James Cadet Oxandaburu was not present for the hearing. The hearing closed at 3:50 p.m.

Motion by Fischer, second by Eisnach, to deny the property manager's application of Paul Flogstad. Motion carried.

The executive director informed the commission of an organization formed by the Northern Hills Association of REALTORS called RAM, REALTORS Against Meth, and that she had received a request for funds from the Real Estate Commission to help with the costs of presentations to schools in the northern hills area on the effects of meth. Following discussion, the commission instructed the executive director to write a letter informing the Northern Hills Association that their request had been denied since these were not statewide presentations and did not involve the effect of meth as it pertains to the real estate industry.

The executive director informed the commission that Marsha Salhi has failed to comply with the order issued to her on February 11, 2005. Following discussion, Eisnach moved, seconded by Fischer, to revoke the broker's license of Marsha Salhi for contempt of order. Motion carried.

The meeting recessed at 4:30 and reconvened at 8:30 a.m. on December 15, 2005.

Commission member Brian Jackson was present for the meeting on December 15, 2005.

Discussion was held on holding a meeting with AMP on the new simulation exam. The executive director was instructed to invite AMP to the meeting on February 1 & 2, 2006 for a demonstration on the exam and to also invite the prelicensing instructors to the demonstration.

Motion by Jackson, second by Lewis, to enter into executive session at 8:55 a.m. Motion carried.

The informal consultation on complaint #2006-002, Valnes vs. Assist 2 Sell Buyers & Sellers Realty/Folk & #2006-003, Valdez vs. Assist 2 Sell Buyers & Sellers Realty/Folk was convened at 9:00 a.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, complainants Cully Valnes and Roi Valdez and respondent Steve Folk. The consultation concluded at 10:20 a.m.

Deputy Director Tim Weber left the meeting at 10:30 a.m.

December minutes, page 3

Motion by Eisnach, second by Jackson, to come out of executive session at 11:25 a.m. Motion carried.

Discussion was held on the Findings of Fact, Conclusions of Law and Proposed Decision on Ryan Olsen. Motion by Eisnach, second by Fischer, to adopt the proposed decision of hearing officer Julie Johnson on Ryan Olsen and to assess a monetary penalty of \$1,000, reimbursement of costs to the commission and 6 hours of continuing education in agency law and 7 hours in ethics with costs and penalty to be paid within 10 days of the order and continuing education completed within 1 year or license will be revoked. Motion carried with Commission member Lewis recusing herself.

Discussion was held on the Petition to Review of Melvin Dreyer. Motion by Eisnach, second by Fischer, to reject the petition for reconsideration of Melvin Dreyer. Motion carried with Commission member Lewis recusing herself.

Motion by Fischer, second by Jackson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Steve Folk to the reimbursement of costs to the commission, reimbursement of mileage to the complainants, completion of 6 hours of continuing education in agency law and 6 hours in contracts, to bring their forms and office policy into compliance and to provide the commission with a revised marketing agreement. If Mr. Folk does not agree to the Stipulation and Assurance of Voluntary Compliance, the commission will move to a formal hearing. Motion carried.

The next meeting of the commission will be held February 1 & 2, 2006 in Pierre.

There being no further business, Jackson moved, seconded by Eisnach, to adjourn at 11:40 a.m. Motion carried.

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Charles Larkin, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on December 14 & 15, 2005.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
OCTOBER 19 & 20, 2005  
ST. CHARLES HOTEL  
207 EAST CAPITOL AVE  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:00 p.m. on October 19, 2005 in the Conference Room of the St. Charles Hotel, Pierre, SD. Present for the meeting were Chairman Charles Larkin and Commission members Loren Anderson, Dennis Eisnach, Eileen Fischer and Brian Jackson. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling. Tim Weber, Deputy Director of the Department of Revenue and Regulation appeared as an observer.

Motion by Jackson, second by Eisnach, to approve the minutes of the August 24 & 25, 2005 and September 15, 2005 meeting. Motion carried.

Motion by Anderson, second by Jackson, to accept the financial reports for August and September 2005. Motion carried.

The executive director informed the Commission that the fiber has been installed in the commission office and hopefully will be hooked up by the end of the week.

Commission Chairman Larkin briefed the Commission on the ND/SD REALTORS Convention in Sioux Falls. Chairman Larkin said the convention was a huge success and that the education was very good. He said the REALTORS Association of the Sioux Empire did a great job in putting the convention together.

The executive director and Chairman Larkin briefed the Commission on the Annual ARELLO Conference in Toronto, Canada. They both attended various sessions and stated that the sessions were very good. The SD Real Estate Commission received an award for the continuing education course on Meth. Chairman Larkin informed the Commission that there are several issues coming up in the next five years that the Commission needs to stay abreast of.

Hearing officer Julie Johnson at 1:30 p.m. convened the formal hearing on complaint #2005-022, SDREC vs. Assist 2 Sell Buyers and Sellers Realty/Olsen. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, Nancy Peck, court reporter Carla Bachand, defendant Ryan Olsen and his attorney Haven Stuck and witnesses April Malik, Bimende Malik and Ashley Olsen. The hearing closed at 4:24 p.m.

Deputy Director Tim Weber left the meeting at 4:30 p.m.

Motion by Anderson, second by Jackson, to enter into executive session at 4:30 p.m. Motion carried.

Motion by Jackson, second by Anderson, to come out of executive session at 5:05 p.m. Motion carried.

Findings of Fact, Conclusions of Law and Proposed Decision on Melvin Dreyer. Motion by Jackson, second by Anderson, to adopt the Findings of Fact, Conclusions of Law and Proposed

Decision of Hearing Officer Leo Disburg with the license of Melvin Dreyer suspended for 12 months with 10 months stayed upon payment of a fine in the amount of \$2,500 and reimbursement of costs. Motion carried.

The meeting recessed at 5:15 p.m. and reconvened at 8:30 a.m. with Commission Member Anderson not in attendance. Deputy Director Tim Weber was present as an observer.

The Commission reviewed the proposed legislation drafted by the executive director and briefed the Deputy Director on the changes.

Discussion was held on the revisions to the buyer agency form.



Deputy Director Tim Weber left the meeting at 9:10 a.m.

Motion by Jackson, second by Fischer, to enter into executive session at 9:10 a.m. Motion carried.

The informal consultation on complaint #2005-031, Murray vs. Help-U-Sell Out West/Williams was convened at 9:15 a.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, complainant Bonnie Murray and respondent Brandt Williams. The consultation concluded at 10:15 a.m.

Motion by Eisnach, second by Jackson, to come out of executive session at 11:20 a.m. Motion carried.

Motion by Eisnach, second by Jackson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Brandt Williams to a reimbursement of costs and 6 hours of continuing education in contracts. Motion carried.

Complaint #2005-015, Rauck vs. Assist 2 Sell Buyers & Sellers Realty/Folk. Motion by Eisnach, second by Fischer, to dismiss the complaint as requested by the complainants. Motion carried.

Complaint #2006-002, Valnes vs. Assist 2 Sell Buyers & Sellers Realty/Folk and complaint #2006-003, Valdez vs. Assist 2 Sell Buyers & Sellers Realty/Folk. Motion by Jackson, second by Fischer, to hold an informal consultation. Motion carried.

Complaint #2006-004, Pommer vs. M Realty/Story. Motion by Jackson, second by Eisnach, to dismiss the complaint and have the executive director write a letter to the licensee regarding disclosure issues. Motion carried.

Deputy Director Tim Weber rejoined the meeting at 11:30 a.m.

Various issues were discussed with the Deputy Director.

The executive director informed the Commission on the ARELLO Board of Directors meeting in January 2006 in Jacksonville, FL and requested the approval of Chairman Larkin, who is a member of the Board of Directors, and the executive director to attend the meeting. Motion by Eisnach, second by Fischer, to approval the travel request for Chairman Larkin and the executive director to attend the ARELLO Board of Directors of meeting. Motion carried.

Chairman Larkin brought up the issue of teams and expressed a need to look into the "team" concept.

Discussion was held on the real estate exam and the pass-fail ratio.

The Deputy Director left the meeting at 1:20 p.m.

Motion by Eisnach, second by Fischer, to enter into executive session at 1:25 p.m. Motion carried.

The informal consultation on complaint #2006-001, Michlitsch vs. Westby Realty & Auction Co./Westby/Lekness was convened at 1:30 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, complainant Steven Michlitsch and his attorney Phil Morgan and respondents Larry Lekness, Rodney Westby and Lois Westby. The respondents appeared without legal counsel. The consultation concluded at 2:10 p.m.

Motion by Eisnach, second by Jackson, to come out of executive session at 2:20 p.m. Motion carried.

Motion by Eisnach, second by Jackson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Rodney and Lois Westby to dismiss the complaint if they each take 6 hours of continuing education in agency law. Motion carried.

The next meeting of the commission will be held December 14 & 15, 2005 in Pierre.

There being no further business, Eisnach moved, seconded by Fischer, to adjourn at 2:35 p.m. Motion carried.

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Charles Larkin, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on October 19 & 20, 2005.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
AUGUST 24 & 25, 2005  
HOLIDAY INN EXPRESS  
110 EAST STANLEY ROAD  
FORT PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:00 p.m. on August 24, 2005 in Conference Room A of the Holiday Inn Express, Fort Pierre, SD. Present for the meeting were Chairman Charles Larkin and Commission members Loren Anderson, Dennis Eisnach, Eileen Fischer and Brian Jackson. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling.

Motion by Anderson, second by Eisnach, to approve the minutes of the June 29 & 30, 2005 meeting. Motion carried.

Motion by Anderson, second by Jackson, to accept the financial reports for June & July 2005. Motion carried.

The commission reviewed the 2005 Annual Report for the Real Estate Commission.

The executive director shared the article published by the Department of Justice that permits real estate brokers to offer rebates and inducements.

Discussion was held on whether licensees with minimal ownership in a corporation have to hold an active license. Following discussion, the commission agreed that licensees with minimal ownership could hold an inactive license provided the income they receive from ownership in the company comes from dividends only.

Hearing Officer Julie Johnson at 1:37 p.m. convened the formal hearing on complaint #2005-016, SDREC vs. KB Lloyd Property Management/Lloyd. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, court reporter Mona Weiger and witnesses Kim Rupp who appeared telephonically and Nancy Peck. The hearing closed at 1:56 p.m.

Motion by Eisnach, second by Anderson, to revoke the license of Kim Lloyd. Motion remained open pending the Findings of Fact, Conclusions of Law and Proposed Decision from hearing officer Julie Johnson.

Cleo Anderson joined the commission to share a letter signed by Dan Specht, Tony & Barb Perk and herself regarding the complaint that has been filed against herself and Jeff Fejfar. She also requested that the commission act on the complaint instead of having the Office of Hearing Examiners act on it. Ms. Anderson left the meeting at 2:20 p.m.

The executive director briefed the commission on her meeting with AMP and reported on the process of the new simulation exam. She explained how the exam emphasizes application and analysis, rather than recall.

Motion by Anderson, second by Fischer, to enter into executive session at 3:05 p.m. Motion carried.

Motion by Jackson, second by Fischer, to come out of executive session at 4:05 p.m. Motion carried.

Motion by Eisnach, second by Fischer, to conditionally approve the application for a license for Lisa Sweeney Nicol. Motion carried.

August minutes, page 2

Motion by Jackson, second by Eisnach, to enter into executive session at 4:08 p.m. to review complaints. Motion carried.

Motion by Eisnach, second by Jackson, to come out of executive session at 5:25 p.m. Motion carried.

Complaint #2004-018, Wing vs. United Real Estate Solutions/Peterson & Century 21 Davenport & Associates/Armstrong. Motion by Eisnach, second by Anderson, to dismiss the complaint. Motion carried.

Complaint #2005-012, Schmitendorf vs. Prudential Kahler REALTORS/Rick Kahler. Motion by Anderson, second by Eisnach, to dismiss the complaint. Motion carried.

Complaint #2005-015, Rauck vs. Assist 2 Sell Buyers & Sellers Realty/Folk. Motion by Anderson, second by Jackson, to hold an informal consultation. Motion carried.

Complaint #2005-026, Guliuzza vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Koscielski. Motion by Anderson, second by Jackson, to dismiss the complaint. Motion carried.

Complaint #2005-027, Johnson vs. Premier Real Estate LTD/Jacobsen & Wade Druin. Motion by Eisnach, second by Jackson, to hold an informal consultation. Motion carried.

Complaint #2005-028, Wagner vs. Century 21 Professional Real Estate/Youngberg & Dan Specht. Motion by Fischer, second by Jackson, to dismiss the complaint. Motion carried.

Complaint #2005-029, AgGro, Inc./Miner vs. Coldwell Banker Anderson Realty/Cleo Anderson/Fejfar. Motion by Eisnach, second by Fischer to dismiss the complaint. Motion carried.

Complaint #2005-030, SDREC vs. Cadet Oxandaburu. Motion by Jackson, second by Fischer, to approve legal counsel's stipulation to the revocation of the license of Cadet Oxandaburu, a penalty of \$2,500 and a reimbursement of costs. Motion carried.

Complaint #2005-031, Murray vs. Help-U-Sell Out West/Williams. Motion by Anderson, second by Fischer, to hold an informal consultation and request that all owners of Titan Development attend the consultation. Motion carried.

Complaint #2005-032, Mitchell vs. Hot Springs Heartland Real Estate/Mosset. Motion by Anderson, second by Fischer, to dismiss the complaint. Motion carried.

Complaint #2006-001, Michlitsch vs. Westby Realty & Auction Co./Westby/Lekness. Motion by Fischer, second by Jackson, to hold an informal consultation. Motion carried.

Motion by Anderson, second by Jackson, to approve broker associate's who have not completed the responsible broker course pursuant to SDCL 36-21A-31 to open their own office as long as they complete the next available responsible broker course with commission approval. Motion carried.

The executive director requested the approval from the commission for Auditor Nancy Peck and herself to attend the 2005 National Land Council Conference in Sanibel Island, Florida October 26-30, 2005. Motion by Fischer, second by Eisnach, to submit a request for the executive director and Nancy Peck to attend the conference. Motion carried.

August minutes, page 3

The executive director updated the commission on the trust account course that the office will be offering to brokers, office assistants who do the bookkeeping and property managers. Those that attend the course will be given continuing education credit.

The executive director informed the commission that fiber will be installed in the office in the near future.

An update on the ARELLO District Meeting in Nashville, TN was given by those that attended.

The meeting recessed at 5:45 p.m. and reconvened at 8:30 a.m. on August 25, 2005.

The commission reviewed the Findings of Fact, Conclusions of Law and Proposed Decision on Kim Lloyd. A substitute motion by Eisnach, second by Anderson, to adopt the proposed decision of Hearing Officer Julie Johnson to the revocation of the license of Kim Lloyd and a reimbursement of costs and to amend the decision to include a penalty of \$2,500. Motion carried.

The executive director informed the commission that commission staff will have a booth at the ND/SD REALTORS Convention in Sioux Falls to answer questions of licensees on new forms, meth disclosure and other issues.

Motion by Anderson, second by Eisnach, to enter into executive session at 8:45 a.m. Motion carried.

Motion by Anderson, second by Jackson, to come out of executive session at 9:00 a.m. Motion carried.

Findings of Fact, Conclusions of Law and Proposed Decision on Allen Nouis and Paul Rothenberger. Motion by Fischer, second by Jackson, to not adopt the Findings of Fact, Conclusions of Law and Proposed Decision of Hearing Office Leo Disburg and to have legal counsel redraft the Findings of Fact, Conclusions of Law and Order and access Allen Nouis a penalty of \$250 and the reimbursement of costs and dismiss the complaint against Paul Rothenberger. Motion carried.

The public rules hearing was called to order by Chairman Larkin at 9:00 a.m. The hearing closed at 10:35 a.m.

The executive director informed the commission that she felt there are several statues that need to be cleaned up. The executive director was instructed to draft legislation for the commission's review.

The next meeting of the commission will be held October 19, 20 & 21, 2005 in Pierre.

There being no further business, Anderson moved, seconded by Eisnach, to adjourn at 11:50 a.m. Motion carried.

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Charles Larkin, Chairman

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Dee Jones Noordermeer, Executive Director

August minutes, page 4

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on August 24 & 25, 2005.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION  
JUNE 29 & 30, 2005  
HOLIDAY INN EXPRESS  
110 EAST STANLEY ROAD  
FORT PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:00 Noon on June 29, 2005 in Conference Room A of the Holiday Inn Express, Fort Pierre, SD. Present for the meeting were Chairman Loren Anderson and Commission members Dennis Eisnach, Eileen Fischer, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling.

Motion by Jackson, second by Fischer, to approve the minutes of the May 11 & 12, 2005 meeting. Motion carried.

Motion by Eisnach, second by Jackson, to accept the financial reports for April & May 2005. Motion carried.

The commission reviewed the proposed budget for FY 2006. Following discussion, Eisnach moved, seconded by Fischer, to adopt the proposed budget for FY 2006. Motion carried.

Chairman Loren Anderson convened the application appeal of Scott Meyer at 12:40 p.m. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, Robert Nelson and applicant Scott Meyer. The hearing closed at 12:57 p.m.

Motion by Larkin, second Fischer, to approve the application and grant a timeshare license to Scott Meyer. Motion carried.

The executive director informed the commission that the formal hearing scheduled for Diane Byrd had been continued until after sentencing by request from Ms. Byrd's attorney.

Discussion was held on the qualifications for licensure for home inspectors. Following discussion, it was agreed that the commission would work on changing the statutes for home inspector qualifications for licensure.

Discussion was held on requiring post licensing education to be completed within a certain timeframe after becoming licensed as a broker associate.

Motion by Larkin, second by Eisnach, to enter into executive session at 1:35 p.m. Motion carried.

The informal consultation on complaint #2005-021, Chickering/LeCates vs. Coldwell Banker C Dakota Realty/O'Connor/Erickson was convened at 2:05 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, complainants Jill LeCates and Dave Chickering and respondents Glynis Erickson, Kris O'Connor and Hazen Bye. There was no objection from the parties to the complaint to any of the commission members participating in the consultation. The consultation concluded at 3:45 p.m.

Motion by Larkin, second by Eisnach, to come out of executive session at 4:15 p.m. Motion carried.

June minutes, page 2

Motion by Jackson, second by Eisnach, to have the executive director write a letter of admonishment to the licensees regarding the transaction file and dismiss the complaint. Motion carried.

Complaint #2005-022, Malik vs. Assist 2 Sell/Buyers and Sellers Realty/Olsen/Paz. Motion by Jackson, second by Eisnach, to move to a formal hearing on Ryan Olsen and dismiss the complaint against Wendy Paz. Motion carried.

Discussion was held regarding the prohibition of inducements and commission rebates pursuant to Declaratory

Rulings 93-1 and 2003-01 not being in compliance with the Sherman Antitrust Act as alleged by the Antitrust Division of the U.S. Department of Justice.

Motion by Eisnach, second by Larkin, to enter into executive session at 4:45 p.m. to review complaints. Motion carried.

Motion by Larkin, second by Jackson, to come out of executive session at 5:10 p.m. Motion carried.

Complaint #2005-024, Tempel vs. Key Real Estate/Anderson. Motion by Larkin, second by Jackson, to dismiss the complaint and have the executive director write a letter of admonishment to the licensees for failure to communicate that a stop payment had been issued on the earnest money check. Motion carried.

Complaint #2005-025, Campbell vs. Assist 2 Sell Buyers & Sellers Realty/Nguyen. Motion by Larkin, second by Eisnach, to dismiss the complaint and have legal counsel write a letter to the complaint informing her that she needs to seek legal remedy. Motion carried.

The meeting recessed at 5:25 p.m. and reconvened at 8:30 a.m. on June 30, 2005.

Further discussion was held on Declaratory Ruling 93-01 and 2003-01. Following discussion, Eisnach moved, seconded by Fischer, to repeal Declaratory Ruling 93-01. Motion carried. Motion by Fischer, second by Jackson, to repeal Declaratory Ruling 2003-01. Motion carried. Legal counsel was instructed to draft resolutions of repeal.

The commission reviewed the revised real estate relationships disclosure form and the agency agreement addendum. Motion by Larkin, second by Jackson, to approve the revised forms. Motion carried.

The commission reviewed the proposed administrative rules. Following discussion, Fischer moved, seconded by Eisnach, to approve the proposed administrative rules. Motion carried.

Discussion was held on the revised consumer guide. Motion by Eisnach, second by Jackson, to approve the revised consumer guide. Motion carried.

This being the time and place to elect new officers for the Real Estate Commission, Chairman Anderson opened nominations. Fischer nominated Larkin for Chairman and Jackson for Vice-Chairman and moved that nominations cease. Eisnach seconded. Motion carried with Larkin and Jackson elected.

The next meeting of the commission will be held August 24 & 25, 2005 in Fort Pierre.

June minutes, page 3

There being no further business, Larkin moved, seconded by Jackson, to adjourn at 10:05 a.m. Motion carried.

\_\_\_\_\_  
Loren Anderson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on June 29 & 30, 2005.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION

MAY 11 & 12, 2005

RAMKOTA CONVENTION CENTER

2111 LACROSSE STREET

RAPID CITY, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 8:30 a.m. on May 11, 2005 in the Lincoln Room of the Ramkota Convention Center, Rapid City, SD. Present for the meeting were Chairman Loren Anderson and Commission members Eileen Fischer, Brian Jackson and Charles Larkin. Commission member Dennis Eisnach was absent from the meeting. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling.

Motion by Larkin, second by Fischer, to approve the minutes of the March 9 & 10, 2005 meeting. Motion carried.

Motion by Larkin, second by Fischer, to accept the financial report for March 2005. Motion carried.

The executive director informed the commission that the move to the new office location had been completed and all was going well except for some problems with the speed in the computer system. The executive director was instructed to contact BIT to see if they can solve the issue of the slow speed.

The executive director informed the commission of a letter the office staff had received from Department of Revenue and Regulation Secretary, Gary Viken regarding the administrative/legal proceedings and related communications policy.

The executive director briefed the commission on the meeting with AMP that was held in conjunction with the ARELLO Midyear meeting in Monterey, CA. AMP is working on a new simulation exam for brokers to be used in addition to the current licensing exam.

The executive director briefed the commission on the home inspector session of the ARELLO Midyear meeting. Discussion was held on revising the statutes and administrative rules for home inspectors.

Charlie Larkin briefed the commission members on the Board of Director meetings he attended at the ARELLO Midyear meeting in Monterey, CA.

Discussion was held on the ARELLO District meeting in Nashville, TN July 16-20, 2005, the Annual ARELLO conference in Toronto, CANADA September 29-October 2, 2005 and the Investigator's Seminar in Louisville, KY August 18-20, 2005. Motion by Jackson, second by Fischer, to submit a request for the executive director and up to four commission members to attend the ARELLO District meeting and the Annual ARELLO conference and the attendance of Nancy Peck and Tim Buseman at the Investigator's Seminar. Motion carried.

Discussion was held on a letter received from Dave Mortimer of Coldwell Banker Lewis-Kirkeby-Hall Real Estate regarding appointed agency. The legislative task force will take the letter under consideration.

The executive director informed the commission that Nancy Peck and Tim Buseman are working on a course in trust accounting to be presented across the state for brokers, office managers and property managers. Attendees will be given continuing education credit.

May minutes, page 2

The commission reviewed the Findings of Fact, Conclusions of Law and Proposed Order on Paul Hayman. Following

discussion, Larkin moved, seconded by Jackson, to adopt the Proposed Order of Hillary Brady to dismiss the complaint against Paul Hayman. Motion carried.

Motion by Fischer, second by Jackson, to enter into executive session at 11:25 a.m. to review complaints. Motion carried.

Motion by Larkin, second by Fischer, to come out of executive session at 11:45 a.m. Motion carried.

Complaint #2005-020, Leitheiser vs. Kuhle-Sutton Agency/Sutton. Motion by Jackson, second by Larkin, to dismiss the complaint. Motion carried.

Complaint #2005-021, Chickering/LeCates vs. Coldwell Banker C Dakota Realty/O'Connor/Erickson. Motion by Larkin, second by Jackson, to hold an informal consultation. Motion carried.

The meeting recessed for lunch at 11:47 a.m. and reconvened at 1:30 p.m. with Chairman Anderson absent for the afternoon meeting.

Hearing Officer Leo Disburg at 1:30 p.m. convened the formal hearing on complaint #2004-021, SDREC vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Dreyer. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, investigator Nancy Peck, court reporter Fran Abraham, Dan McFarland, defendant Melvin Dreyer and his attorney John Nooney and witnesses Courtney Clayborne, Douglas Hamilton and Phil Olsen. The hearing closed at 7:00 p.m.

The meeting recessed at 7:05 p.m. and reconvened at 8:30 a.m. with Chairman Anderson present but with Vice Chairman Larkin presiding over the meeting.

Motion by Jackson, second by Anderson, to enter into executive session at 8:35 a.m. Motion carried.

Motion by Jackson, second by Anderson, to come out of executive session at 9:15 a.m. Motion carried.

Hearing Officer Leo Disburg at 9:30 a.m. convened the formal hearing on complaint #2005-011, SDREC vs. Paul Rothenberger Realty, Inc./Nouis. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, investigator Nancy Peck, court reporter Fran Abraham, defendant Allen Nouis and his attorney Wade Nyberg, defendant Paul Rothenberger and his attorney Tom Brady and witnesses Brian Pope, John Marta and Cindy Nouis. The hearing closed at 1:20 p.m.

Investigator Nancy Peck left the meeting at 1:00 p.m.

Motion by Anderson, second by Fischer, to enter into executive session at 1:28 p.m. Motion carried.

The informal consultation on complaint #2005-018, Starr vs. Hegg, REALTORS Inc./Berglin was convened at 1:30 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, complainants Clark and Ruby Starr and respondents Kelly Berglin and Bill Hegg. The consultation concluded at 2:55 p.m.

May minutes, page 3

Motion by Jackson, second by Fischer, to come out of executive session at 3:10 p.m. Motion carried.

Motion by Fischer, second by Jackson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Kelly Berglin to the completion of 6 hours of continuing education in agency law and with Hegg REALTORS, Inc. to drop the small claims suit against the Starrs in lieu of costs and monetary fines to the commission. Motion carried.

The executive director informed the commission that a commission complaint has been filed against Diane Byrd and the complaint will be amended to include SDCL 36-21A-71(2).

The next meeting of the commission will be held June 29, 30 & July 1, 2005 in Ft. Pierre.

There being no further business, Anderson moved, seconded by Jackson, to adjourn at 3:30 p.m. Motion carried.



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Charles Larkin, Vice Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on May 11 & 12, 2005.

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Dee Jones Noordermeer, Executive Director

SD REAL ESTATE COMMISSION

MARCH 9 & 10, 2005

STATE CAPITOL, ROOM 464

500 EAST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:30 p.m. on March 9, 2005 in Room 464 of the State Capitol, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and Commission members Dennis Eisnach, Brian Jackson and Charles Larkin. Commission member Eileen Fischer was absent from the meeting. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling.

Motion by Larkin, second by Eisnach, to approve the minutes of the February 2 & 3, 2005 meeting. Motion carried.

Motion by Eisnach, second by Larkin, to accept the financial reports for January and February 2005. Motion carried.

The executive director informed the commission that the commission office would be moving to 221 West Capitol Avenue, Suite 101 on March 15, 2005.

Motion by Jackson, second by Eisnach, to enter into executive session at 12:50 p.m. Motion carried.

Chairman Loren Anderson convened the application appeal of Martin Harper at 12:55 p.m. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, Murl Miller and applicant Martin Harper. The hearing closed at 1:15 p.m.

Motion by Eisnach, second by Jackson, to come out of executive session at 1:20 p.m. Motion carried.

Motion by Larkin, second by Eisnach, to grant a real estate broker associate's license to Martin Harper. Motion carried.

Hearing Officer Hillary Brady at 1:30 p.m. convened the formal hearing on complaint #2004-028, SDREC vs. Hayman Inspections/Hayman. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, investigator

Nancy Peck, court reporter Carla Bachand and defendant Paul Hayman. The hearing closed at 3:05 p.m.

Motion by Larkin, second by Jackson, to enter into executive session at 3:10 p.m. Motion carried.

Motion by Jackson, second by Eisnach, to come out of executive session at 3:25 p.m. Motion carried.

March minutes, page 2

The executive director informed the commission that the Governor signed the property condition disclosure and appointed agency bills and the term limit bill had passed both chambers of the Legislature.

Discussion was held on the auctioneer task force. The executive director informed the commission that she was provided with a list of auctioneers that would be interested in being on the task force. The commission instructed the executive director to choose two individuals from the list provided to be on the task force. Commission member Charles Larkin volunteered to be the representative from the commission to be on the task force.

Discussion was held on the home inspector task force. Commission member Brian Jackson volunteered to be the representative from the commission to be on the task force.

The executive director informed the commission that the office had received an application from Robert Hornstra and that his education was over two years from the date of the application but he had passed the exam in December 2004. Mr. Hornstra had informed the executive director that he was willing to retake the education but requested that the commission accept his exam results upon completing the education. Following discussion, Eisnach moved, seconded by Jackson, that Robert Hornstra complete the 100 hours of education by April 30, 2005 and that the commission accept the exam taken in December 2004. Motion carried.

The executive director shared a letter with the commission that she had received from Marsha Salhi.

Discussion was held on sales within developments. The commission instructed the executive director to write a letter to Carl Schwab that it is the consensus of the commission that the property owner exemption for licensing supercedes that of requiring a license if a pattern of real estate activity has been established.

Discussion was held on upcoming travel. The executive director will make arrangements for commission members Anderson, Fischer and Larkin to attend the ND/SD REALTORS Convention in Sioux Falls, September 14-16, 2005. The executive director informed the commission of the REEA Conference to be held June 19-22, 2005 in Myrtle Beach, SC. Motion by Eisnach, second by Jackson, to approve the attendance of the executive director and the education director at the conference. Motion carried. Discussion was also held on the ARELLO Annual Conference in Toronto, Canada and the District 2 & 3 Conference in Nashville, Tennessee.

The meeting recessed at 4:35 p.m. and reconvened at 8:30 a.m. on March 10, 2005.

Discussion was held on the financial status of the commission and ways to cut back on expenditures to help prevent raising licensure fees. The executive director will provide the commission with a financial projection after fiscal year 2005 is closed.

Discussion was held on the statutes and rules pertaining to home inspectors. The executive director has been working with the home inspector task force to review changes that are needed with the statutes and rules.

March minutes, page 3

Motion by Larkin, second by Jackson, to enter into executive session at 9:00 a.m. to review complaints. Motion carried.

Motion by Eisnach, second by Larkin, to come out of executive session at 9:45 a.m. Motion carried.

Complaint #2005-016, Rupp vs. KB Lloyd Property Management/Lloyd. Motion by Jackson, second by Larkin, to move to a formal hearing. Motion carried.

Complaint #2005-017, Cap vs. HJN Team Real Estate/Breuer. Motion by Eisnach, second by Jackson, to dismiss the complaint. Motion carried.

Complaint #2005-018, Starr vs. Hegg, REALTORS Inc./Berglin. Motion by Larkin, second by Eisnach, to hold an informal consultation. Motion carried.

The commission reviewed a draft of the declaratory ruling prepared by legal counsel pertaining to inducements. The executive director was instructed to review statutes and rules from other jurisdictions as to inducements.

Lisa Salvato failed to appear for an application appeal. The commission will hold the application appeal for a future meeting.

The next meeting of the commission will be held May 11, 12 & 13, 2005 in Rapid City.

There being no further business, Larkin moved, seconded by Eisnach, to adjourn at 10:50 a.m. Motion carried.

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Loren Anderson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on March 9 & 10, 2005.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION

FEBRUARY 2 & 3, 2005

SOLDIERS & SAILORS BUILDING

425 EAST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:30 p.m. on February 2, 2005 in the Conference Room of the Soldiers and Sailors Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and commission members Dennis Eisnach, Eileen Fischer, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff special Norma Schilling. Legal counsel Jim Robbennolt was not present for the meeting on February 3, 2005.

Attending the meeting as visitors were Jim and Linda Dunham, Dave Mortimer, Cindy Guthrie, Tony Marshall, Dan Specht and Lisa Blaaid.

The executive director introduced Karen Callahan who was hired as the new education director.

Motion by Larkin, second by Eisnach, to approve the minutes of the December 15, 16 & 17, 2004 meeting. Motion carried.

Motion by Fischer, second by Jackson, to accept the financial report for December 2004. Motion carried.

The executive director gave a fiscal update on the administrative fees and presented the commission with the formula used by the Department of Revenue and Regulation to calculate the administrative fees.

Commission member Eisnach gave a report on the meeting he and Chairman Anderson had with Rob Skjonsberg of the Governor's Office.

The executive director informed the commission that the commission office would be moving to office space located at 221 West Capitol, Suite 101 and that John Grunewaldt with BOA is drawing up the contract. The move will be taking place in March 2005. Motion by Eisnach, second by Jackson, to approve the move of the office to 221 West Capitol, Suite 101 and the purchase of new furniture for the office. Motion carried.

The commission set the dates for future commission meetings.

Chairman Anderson informed the commission that he had been approached by a licensee inquiring as to whether the current E & O carrier would provide an option to purchase higher limit coverage. Following discussion, the commission directed the executive director to contact Rice Insurance Services regarding higher limit coverage.

The executive director gave an update on legislation. Motion by Larkin, second by Jackson, to support the request to kill HB1147 involving home inspectors. Motion carried.

Discussion was held on the legislative task force.

February minutes, page 2

Discussion was held on incentives. Legal counsel was instructed to draft a declaratory ruling stating any incentive that is monetary in nature is illegal.

Discussion was held on who is allowed to receive a referral fee. The issue will be reviewed by the legislative task force.

Discussion was held on what establishes a pattern of practice in the sale of real estate. The executive director was instructed to include this issue on the agenda for a future meeting.

The executive director informed the commission that the staff was in the process of drawing up a contract with Lynn Madison to develop and present the Spring 2005 caravan.

Visitors at the commission meeting left at 2:35 p.m.

Motion by Jackson, second by Eisnach, to enter into executive session at 2:45 p.m. Motion carried.

Commission member Eileen Fischer left the meeting at 3:30 p.m.

Motion by Larkin, second by Jackson, to come out of executive session at 4:00 p.m. Motion carried.

Motion by Eisnach, second by Jackson, to approve the broker associate application of Dennis Westphal. Motion carried.

Motion by Larkin, second by Jackson, to adopt the Findings of Fact, Conclusions of Law and Proposed Order on Nick Werner and Coldwell Banker Lewis Kirkeby Hall and to include a letter of admonishment to Coldwell Banker Lewis Kirkeby Hall regarding the practicing of appointed agency and the practices of Troy Ward. Motion carried.

Motion by Jackson, second by Eisnach, to adopt the Findings of Fact, Conclusions of Law and Proposed Order on Marsha Salhi and include a one year stayed suspension of her license contingent upon the payment of a \$500 penalty, reimbursement of costs and completion of 4 hours of continuing education in ethics and 6 hours of continuing education in agency. Payment of penalty and costs to be made within 10 days and education to be completed within one year. Motion carried.

Complaint #2004-018, Wing vs. United Real Estate Solutions/Peterson & Century 21 Davenport & Associates/Armstrong. The commission upheld their decision to continue the complaint until civil litigation is resolved.

Complaints #2005-013, Siebrasse vs. Century 21 Fischer Rounds & Associates/Fischer/Hetland/Goudy and #2005-014, Zaiko vs. Century 21 Fischer Rounds & Associates/Harding & Cottonwood Realty/deHueck. Motion by Larkin, second by Eisnach, to have legal counsel draft a resolution to appoint the Office of Hearing Examiners to hold formal hearings and render a final decision without further commission action. Motion carried.

February minutes, page 3

Commission member Larkin reported on the ARELLO Board of Directors meeting held in Miami, FL.

Legal counsel Jim Robbennolt left the meeting at 4:00 p.m.

The meeting recessed at 4:10 p.m. and reconvened at 8:30 a.m. on February 3, 2005.

Motion by Larkin, second by Jackson, to enter into executive session at 8:50 a.m. Motion carried.

Motion by Larkin, second by Eisnach, to come out of executive session at 9:45 a.m. Motion carried.

Complaint #2005-011, Pope vs. Paul Rothenberger Realty, Inc./Nouis. Motion by Jackson, second by Eisnach, to move to a formal hearing. Motion carried.

The executive director informed the commission that HB1147 was deferred to the 41<sup>st</sup> day by the House Commerce Committee.

The executive director informed the commission that a complainant had requested that the complaint they had filed against a license be put on hold until further notice. The commission agreed to hold the complaint until further notice.

The executive director briefed the commission on the Governor's Red Tape Task Force.

Discussion was held on the legality of a real estate advertisement that was questioned by one of the auditors.

The next meeting of the commission will be held March 9, 10 & 11, 2005.

There being no further business, Larkin moved, seconded by Eisnach, to adjourn at 10:15 a.m. Motion carried.

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Loren Anderson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on February 2 & 3, 2005.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION

DECEMBER 15, 16 & 17, 2004

SOLDIERS & SAILORS BUILDING

425 EAST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:30 p.m. on December 15, 2004 in the Conference Room of the Soldiers and Sailors Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and commission members Dennis Eisnach, Eileen Fischer, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling.

Motion by Larkin, second by Eisnach, to approve the minutes of the September 22 & 23, 2004 meeting. Motion carried.

Motion by Larkin, second by Eisnach, to accept the financial reports for September, October and November 2004. Motion carried.

The executive director informed the commission that she would like to add another line on the financial report for expenditures for non-employee travel.

Motion by Larkin, second by Fischer, to adopt the Findings of Fact, Conclusions of Law and Proposed Decision of Hearing Officer Leo Disburg on Valeree Perlick to a revocation of her license and the reimbursement of expenses. Following discussion, Larkin moved, seconded by Fischer, to amend the Proposed Decision to the revocation of Valeree Perlick's residential rental agent's license, that she reimburse the commission for expenses and that she pay a penalty of \$2,500. Motion carried as amended.

Hearing Office Hillary Brady at 1:10 p.m. convened the formal hearing on complaint #2005-006, SDREC vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Werner. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, investigator Nancy Peck, court reporter Carla Bachand, Tod Christensen, Dave Mortimer, defendant Nick Werner and witnesses Barb Melroe, Dave Melroe, Dan McFarland and Troy Ward. The hearing closed at 3:40 p.m.

Motion by Larkin, second by Eisnach, to enter into executive session at 3:50 p.m. Motion carried.

The informal consultation on complaint #2005-001, Eliason vs. Eliason Real Estate/Eliason/Foley was convened at 3:55 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, investigator Nancy Peck and respondents Earl Eliason and Tom Foley. The complainants were not present for the consultation. Commission member Eileen Fischer left the consultation at 4:15 p.m. The consultation concluded at 4:30 p.m.

Motion by Eisnach, second by Jackson, to come out of executive session at 4:40 p.m. Motion carried.

December minutes, page 2

Motion by Jackson, second by Larkin, to have the executive director write a letter to Earl Eliason and Tom Foley on the importance of using the updated forms and strongly suggest that they attend the 2005 Spring Caravan that will be on agency. Motion carried.

Legal counsel informed the commission that Mark Mareno, attorney for Marsha Salhi, requested that the hearing on Marsha Salhi be moved to an informal consultation. The commission agreed to take the request into consideration.

The meeting recessed at 4:50 p.m. and reconvened at 8:30 a.m. on December 16, 2004.

Motion by Jackson, second by Larkin, to enter into executive session at 8:35 a.m. Motion carried.

Motion by Eisnach, second by Larkin, to come out of executive session at 9:05 p.m. Motion carried.

Motion by Eisnach, second by Fischer, to move to an informal consultation on complaint #2004-023, SDREC vs. Sun Realty, Inc./Marsha Salhi. Motion carried.

The executive director informed the commission that she would be interviewing applicants for the Director of Education position on December 27, 28 & 29, 2004.

The executive director updated the commission on the office move and informed the commission of potential locations.

Discussion was held on the rental and management of vacation homes. Following discussion, the commission agreed that an individual would be acting as a property manager in this activity.

Motion by Eisnach, second by Jackson, to convene to a formal hearing on complaint #2004-023, SDREC vs. Sun Realty, Inc./Marsha Salhi as previously noticed. Motion carried.

Hearing Officer Hillary Brady at 9:50 a.m. convened the formal hearing on complaint #2004-023, SDREC vs. Sun Realty, Inc./Marsha Salhi. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, investigator Tim Buseman, court reporter Carla Bachand, defendant Marsha Salhi and her attorney Mark Mareno and witness Bess Hemmer. The hearing closed at 1:55 p.m.

Motion by Fischer, second by Jackson, to enter into executive session at 2:05 p.m. Motion carried.

Motion by Jackson, second by Eisnach, to come out of executive session at 2:15 p.m. Motion carried.

Chairman Loren Anderson at 2:20 p.m. convened the formal hearing on the application appeal of Christopher Stalheim. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling, John McDonald and applicant Christopher Stalheim. Chairman Anderson declared the hearing closed at 2:28 p.m.

December minutes, page 3

Motion by Eisnach, second by Jackson, to enter into executive session at 2:30 p.m. Motion carried.

Motion by Jackson, second by Eisnach, to come out of executive session at 2:35 p.m. Motion carried.

Motion by Larkin, second by Eisnach, to approve the application of Christopher Stalheim. Motion carried.

Chairman Loren Anderson at 2:50 p.m. convened the formal hearing on the application appeal of Darrell Leamy. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and applicant Darrell Leamy. Chairman Anderson declared the hearing closed at 3:40 p.m.

Motion by Jackson, second by Fischer, to enter into executive session at 3:45 p.m. Motion carried.

Motion by Larkin, second by Eisnach, to come out of executive session at 3:50 p.m. Motion carried.

Motion by Larkin, second by Jackson, to approve the application of Darrell Leamy. Motion carried.

Motion by Larkin, second by Fischer, to dismiss complaints #2005-002, Sittig, Trombetta vs. Sturgis Real Estate Co./Wilson, #2005-009, Landborg vs. Hegg Companies, Inc./Madsen/Hegg Zueger and #2005-010, Flint vs. Heartland Real Estate/Fuller/Wouden. Motion carried.

Discussion was held on the request for an experience waiver for Robert Burke. Motion by Eisnach, second by Larkin, to grant the experience waiver for Robert Burke upon the receipt of three letters of rejection from responsible brokers. Motion carried.

Discussion was held on the request for an experience waiver for John Fink. Motion by Larkin, second by Fischer, to grant the experience waiver for John Fink. Motion carried.

Motion by Jackson, second by Eisnach, to amend the Findings of Fact, Conclusions of Law and Proposed Decision of Hearing Officer Leo Disburg on Dale, Todd and Kevin McPherson to each pay a fine of \$500 and reimburse the commission for expenses. Motion carried.

Motion by Jackson, second by Larkin, to adopt the Findings of Fact, Conclusions of Law and Proposed Decision of Hearing Officer Leo Disburg on Shirley Sneesby that she reimburse the commission for expenses and that she pay a penalty of \$500 with \$250 of the penalty suspended on condition that she commit no violations of license laws or administrative rules for a period of one year and that she pay the penalty and expenses within 30 days. Motion carried.

Motion by Jackson, second by Fischer, to enter into executive session at 4:20 p.m. Motion carried.

December minutes, page 4

Motion by Jackson, second by Eisnach, to come out of executive session at 4:45 p.m. Motion carried.

The meeting recessed at 4:45 p.m. and reconvened at 8:30 a.m. on December 17, 2004.

Discussion was held on potential locations for the office.

Marlin Fjelland and Tom Souvignier, representing the auctioneer association, joined the meeting at 9:00 a.m. to discuss an auctioneer task force. Discussion was held on 2 auctioneers from the association, 2 auctioneers from outside the association and 1 commission member being on the task force. The executive director was instructed to check on the liability issue for task forces.



Discussion was held on estate and condemned property auctions. Legal counsel feels that they fall under the exemptions for licensing.

Marlin Fjelland Tom Souvignier left the meeting at 9:55 a.m.

The executive director requested direction on a complaint filed by Kenneth, Francis and James McClain. Following review, the commission determined that the complaint falls outside the jurisdiction of the commission.

Discussion was held on the amendment to the Seller's Property Disclosure Statement and the appointed agency bill. Motion by Fischer, second by Larkin, to support the legislative bills on the Seller's Property Disclosure Statement and appointed agency. Motion carried.

The commission reviewed the proposal for term limitations for commission members.

Discussion was held on the breakdown for administrative fees being held out of the budget.

Legal counsel left the meeting at 11:00 a.m.

Discussion was held on the ARELLO Midyear Conference to be held in Monterey, CA March 31-April 2, 2005.

Motion by Larkin, second by Jackson, to enter into executive session at 11:10 a.m. Motion carried.

Motion by Larkin, second by Jackson, to come out of executive session at 11:18 a.m. Motion carried.

The next meeting of the commission will be held February 2, 3 & 4, 2005 in Pierre.

December minutes, page 5

There being no further business, Jackson moved, seconded by Fischer, to adjourn at 11:20 a.m. Motion carried.

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Loren Anderson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on December 15, 16 & 17, 2004.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION

SEPTEMBER 22 & 23, 2004

SOLDIERS & SAILORS BUILDING

425 EAST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:30 p.m. on September 22, 2004 in the Conference Room of the Soldiers and Sailors Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and commission members Dennis Eisnach, Eileen Fischer, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling.

Motion by Eisnach, second by Larkin, to approve the minutes of the August 4 & 5, 2004 meeting. Motion carried.

Motion by Jackson, second by Fischer, to accept the financial reports for July & August 2004. Motion carried.

The executive director informed the commission that Mary Riss had not complied with the education requirements of her Stipulation and Assurance of Voluntary Compliance. Motion by Jackson, second by Fischer, to move to a formal hearing. Motion carried.

The executive director reminded the commission that Larry Janssen was required to complete education in his disciplinary action and that they needed to determine what courses he should complete. Following discussion, Fischer moved, second by Jackson, to have Larry Janssen complete the 15 hour responsible broker course and 6 hours in license law. Motion carried.

Discussion was held on the Stipulation and Assurance of Voluntary Compliance on Gary Spillum. The commission instructed the executive director to write a letter to Mr. Spillum informing him that if he did not agree to the Stipulation and Assurance of Voluntary Compliance than the commission would move to a formal hearing.

Discussion was held on Auctioneer/Property Manager representation on the commission. Following discussion, Eisnach moved, second by Larkin, to investigate the possibility of a task force for Auctioneers and Property Managers and then determine the number to serve on each task force. Motion carried.

Discussion was held on the Scott Enebo appeal/stipulation. Motion by Larkin, second by Eisnach, to adopt the proposed change made by Chris Madsen to the Findings of Fact, Conclusions of Law and Proposed Decision of Hearing Officer Hillary Brady and have the executive director sign the Final Decision. Motion carried.

Hearing Officer Leo Disburg at 1:40 p.m. convened the formal hearing on complaint #2005-007, SDREC vs. Valeree Perlick. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, court reporter Cheri Wittler and witness Dan McFarland. Defendant Valeree Perlick failed to appear for the hearing. The hearing closed at 2:10 p.m.

September minutes, page 2

The executive director updated the commission on her telephone call with Roger Novotny regarding escrow agents.

Hearing Officer Leo Disburg at 2:55 p.m. convened the formal hearing on complaint #2003-019, SDRE vs. Shirley Sneesby. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, court reporter Cheri Wittler and defendant Shirley Sneesby. The hearing closed at 3:10 p.m.

Legal counsel informed the commission that Haven Stuck, attorney for the McPhersons, had requested that the hearing scheduled with the McPhersons be held informally. Following discussion, the commission agreed to proceed with a formal hearing.

Discussion was held on the annual ARELLO Conference in Pittsburgh October 2-5, 2004.

Motion by Jackson, second by Eisnach, to enter into executive session at 3:25 p.m. to review complaints. Motion carried.

Motion by Eisnach, second by Larkin, to come out of executive session at 3:45 p.m. Motion carried.

Complaint #2003-034, Janssen vs. Kemink Land Co./Kemink & Century 21 Advantage II/Tesch. Motion by Jackson, second by Fischer, to dismiss the complaint and have the executive director write a letter regarding the paperwork. Motion carried with Larkin recusing himself from the complaint.

Complaint #2005-003, Carlson vs. Weber Realty, Inc./Weber. Motion by Eisnach, second by Larkin, to dismiss the complaint. Motion carried.

Complaint #2004-023, Hemmer vs. Sun Realty, Inc./Ali Salhi. Motion by Larkin, second by Eisnach, to dismiss the complaint against Ali Salhi. Motion carried.

Lisa Golz appeared before the commission with a request for a conditional approval for a license.

Motion by Jackson, second by Larkin, to enter into executive session at 4:10 p.m. Motion carried.

Motion by Fischer, second by Jackson, to come out of executive session at 4:15 p.m. Motion carried.

Motion by Eisnach, second by Jackson, to approve the request for a conditional approval for a license. Motion carried.

The executive director shared an email written by Brenda Aesoph and sent to all members of the MLS in Watertown. Following discussion, Jackson moved, seconded by Fischer, to have the executive director write a letter of admonishment to Brenda Aesoph with a copy placed in her license file. Motion carried with Larkin recusing himself.

September minutes, page 3

The executive director informed the commission that there was a delay in the mailing of the August/September issue of the newsletter due to the office working with a new publishing company and that a mass mailing for registration of the caravan had been sent out.

Motion by Jackson, second by Larkin, to enter into executive session at 4:35 p.m. to review complaints.

Motion by Eisnach, second by Larkin, to come out of executive session at 4:40 p.m. Motion carried.

Complaint #2005-008, Hayes vs. Rushmore Shadows Resort/Addink/Ed & Peggy Powers. Motion by Larkin, second by Eisnach, to dismiss the complaint. Motion carried.

The meeting recessed at 4:45 p.m. and reconvened at 8:30 a.m. on September 23, 2004.

Motion by Jackson, second by Fischer, to enter into executive session at 8:35 a.m. to review complaints. Motion carried.

Motion by Larkin, second by Jackson, to come out of executive session at 9:25 a.m. Motion carried.

Complaint #2004-028, Donovan vs. Hayman Inspections/Hayman. Motion by Jackson, second by Eisnach, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Paul Hayman to a letter of reprimand regarding his paperwork and a reimbursement of costs of the investigation. Motion carried.

Complaint #2005-001, Eliason vs. Eliason Real Estate/Eliason/Foley. Motion by Eisnach, second by Jackson, to hold an informal consultation. Motion carried.

Complaint #2005-005, Cooper vs. Coldwell Banker Lundquist-Wood-Bradeen Real Estate Services/Wood. Motion by Larkin, second by Eisnach, to dismiss the complaint with a letter of reprimand. Motion carried.

Hearing Officer Leo Disburg at 9:40 a.m. convened the formal hearing on complaint #2005-004, SDREC vs. Dale McPherson Real Estate/Dale, Kevin & Todd McPherson. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbenolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, court reporter Cheri Wittler, defendants Dale McPherson, Kevin McPherson and Todd McPherson and their attorney Haven Stuck. The hearing closed at 10:15 a.m.

Motion by Eisnach, second by Larkin, to enter into executive session at 10:17 a.m. to review complaints. Motion carried.

Motion by Eisnach, second by Jackson, to come out of executive session at 10:40 a.m. Motion carried.

Complaint #2005-006, Melrose vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Werner. Motion by Jackson, second by Eisnach, to move to a formal hearing. Motion carried.

September minutes, page 4

Discussion was held on possible legislation. Items of concern are appointed agency, amending chapter on home inspectors and ownership of property management firms by residential rental agents. The executive director will draft legislation for statutory authority to promulgate rules for home inspectors.

Motion by Eisnach, second by Jackson, to continue support on the appointed agency bill. Motion carried.

The next meeting of the commission will be held November 3, 4 & 5, 2004 in Pierre.

There being no further business, Jackson moved, seconded by Larkin, to adjourn at 11:20 a.m. Motion carried.

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Loren Anderson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on September 22 & 23, 2004.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION

AUGUST 4 & 5, 2004

SOLDIERS & SAILORS BUILDING

425 EAST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:40 p.m. on August 4, 2004 in the Conference Room of the Soldiers and Sailors Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and commission members Dennis Eisnach, Eileen Fischer, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbenolt, executive director Dee Jones Noordermeer and staff specialist Norma Schilling.

Motion by Larkin, second by Jackson, to approve the minutes of the June 16, 17 & 18, 2004 meeting. Motion carried.

otion by Eisnach, second by Fischer, to have the executive director write a letter to the Department of Revenue requesting that the Department return \$40,902.44 into the Commission's State Treasury account that was withdrawn from Commission funds to cover administrative fees. Motion carried.

Motion by Larkin, second by Jackson, to accept the financial report for June 2004. Motion carried.

Commission members Anderson, Jackson and Larkin gave a report on the ARELLO Midyear meeting held in Charleston, South Carolina.

Discussion was held on the ND/SD REALTORS Convention. A request has been submitted for commission members Anderson, Fischer and Larkin to attend.

The executive director requested that she and Nancy Peck be approved to attend the National Land Council meeting in Charleston, South Carolina September 7-12, 2004. Motion by Fischer, second Eisnach, to approve the request for Dee and Nancy to attend the meeting. Motion carried.

The executive director informed the commission that she and Josh Ring will be attending the annual meeting with AMP in Kansas.

Chairman Anderson reported to the commission on the Instructor/Course Development Workshop that was held July 26-28, 2004.

The commission reviewed a request from John Lillibridge for a waiver of continuing education. Motion by Jackson, second by Fischer, to deny the request for a waiver. Motion carried.

Discussion was held on requests for waivers of continuing education. Motion by Larkin, second by Eisnach, to give the executive director the authority to approve or deny requests for continuing education waivers. Motion carried.

August minutes, page 2

Jim Strain joined the meeting at 1:25 p.m. to discuss escrow companies and agents. He has a concern with escrow agents handling large amounts of money and not being licensed and regulated. Mr. Strain left the meeting at 2:00 p.m.

The commission instructed the executive director to visit with Roger Novotny of the Division of Banking regarding escrow agents.

Tim Buseman joined the meeting at 2:25 p.m.

Motion by Jackson, second by Larkin, to enter into executive session at 2:30 p.m. to review complaints. Motion

carried.

Motion by Jackson, second by Eisnach, to come out of executive session at 3:05 p.m. Motion carried.

Complaint #2004-022, Giere vs. Farmers National Company/Vermeer/Martin/Hickey. Motion by Larkin, second by Jackson, to dismiss the complaint and have the executive director write a letter to Mr. Vermeer regarding having a trust account in South Dakota. Motion carried.

Complaint #2004-026, McCormack vs. Coldwell Banker Select/Garry. Motion by Jackson, second by Larkin, to dismiss the complaint against Tom Garry and to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Tim Johnson to a penalty of \$250 for failure to deposit earnest money the following business day and if this is not accepted, move to a formal hearing. Motion carried.

Chairman Loren Anderson at 3:10 p.m. convened the formal hearing on the application appeal of Lester Miles. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and applicant Lester Miles. Chairman Anderson declared the hearing closed at 3:40 p.m.

Scott Ewing appeared before the commission at 3:41 p.m. with a request for a conditional approval for a license. Mr. Ewing left at 4:05 p.m.

Chairman Loren Anderson at 4:20 p.m. convened the formal hearing on the appeal of Gerald LaQua for a reinstatement of his license. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, staff specialist Norma Schilling and Gerald LaQua. Chairman Anderson declared the hearing closed at 5:05 p.m.

Motion by Jackson, second by Fischer, to uphold SDCL 36-21A-66 and deny the request of Gerald LaQua for a reinstatement of his license. Motion carried.

Motion by Eisnach, second by Jackson, to deny the application of Lester Miles for a home inspector license. Motion carried.

The meeting recessed at 5:30 p.m. and reconvened at 8:30 a.m. on August 5, 2004.

August minutes, page 3

Motion by Eisnach, second by Jackson, to enter into executive session at 8:32 a.m. to review complaints. Motion carried.

Motion by Jackson, second by Eisnach, to come out of executive session at 9:20 a.m. Motion carried.

Jeff Iverson, Marlin Fjelland and Tom Souvignier, representing property managers and auctioneers, joined the commission meeting at 9:25 a.m. for discussion with the commission on restricted brokers having representation on the commission. Mr. Iverson, Mr. Fjelland and Mr. Souvignier left the meeting at 10:30 a.m. Following discussion, the commission deferred the matter to a future meeting.

Randy McMillan & Phil Wagner, representing home inspectors, joined the commission meeting at 10:40 a.m. to address concerns with home inspection reports and how they are being used. The commission suggested that a summary report be included at the end of the report and given to the buyer. Mr. McMillan and Mr. Wagner left the meeting at 11:20 a.m.

Motion by Jackson, second by Fischer, to enter into executive session at 11:30 a.m. to review complaints. Motion carried.

Chairman Anderson left the meeting at 11:30 a.m. Vice Chairman Larkin proceeded with the meeting.

Motion by Eisnach, second by Jackson, to come out of executive session at 12:15 p.m. Motion carried.

Complaint #2004-024, Bartholow vs. Montgomery Agency Real Estate/Montgomery & Ace Realty & Auction/Breuer. Motion by Jackson, second by Fischer, to dismiss the complaint and have the executive director write a letter of reprimand to Keith Montgomery. Motion carried.

Complaint #2004-025, Erickson vs. Hegg, REALTORS Inc./Spillum. Motion by Eisnach, second by Fischer, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Gary Spillum to a penalty of \$50 and dismiss the complaint. Motion carried.

Complaint #2004-027, Hill vs. Century 21 Professional Real Estate/Herrlein. Motion by Fischer, second by Jackson, to dismiss the complaint.

Complaint #2004-023, Hemmer vs. Sun Realty, Inc./Marsha Salhi. Motion by Eisnach, second by Jackson, that the commission has sufficient evidence to file a formal complaint and will hold a formal hearing in November, 2004. Motion carried.

The executive director updated the commission on the manufactured housing task force meeting.

Discussion was held on advertising and purchase agreements.

Commission member Eisnach left the meeting at 12:25 p.m.

August minutes, page 4

Discussion was held on the request of Scott Ewing for a conditional approval for a license. Motion by Fischer, second by Jackson, to grant the conditional approval for a license based upon the information received. Motion carried.

The executive director reported to the commission on the meeting she and commission member Eisnach had with Gary Viken.

The next meeting of the commission will be held September 22, 23 & 24, 2004 in Pierre.

There being no further business, Fischer moved, seconded by Jackson, to adjourn at 12:50 p.m. Motion carried.

\_\_\_\_\_  
Loren Anderson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on August 4 & 5, 2004.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION

JUNE 16, 17 & 18, 2004

SOLDIERS & SAILORS BUILDING

425 EAST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 12:38 p.m. on June 16, 2004 in the Conference Room of the Soldiers and Sailors Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and commission members Dennis Eisnach, Eileen Fischer and Brian Jackson. Commission member Charles Larkin was absent from the meeting on June 16, 2004. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and secretary Norma Schilling.

Motion by Fischer, second by Eisnach, to approve the minutes of the May, 3, 4 & 5, 2004 meeting. Motion carried.

Motion by Eisnach, second by Fischer, to accept the financial reports for April & May 2004. Motion carried.

Motion by Eisnach, second by Fischer, to adopt the proposed budget for Fiscal Year 2005. Motion carried.

Discussion was held on legislation. Discussion topics were the meth disclosure form, relationships disclosure and appointed agency.

Discussion was held on a letter received from an auctioneer addressing the concern for auctioneers to have representation on the Commission. The executive director informed the commission that she had also been approached by a property manager about property manager representation on the commission.

Discussion was held regarding a \$10 administrative fee on the processing of errors and omissions insurance premiums.

The executive director briefed the commission on the ARELLO Advanced Investigator Workshop to be held in Denver, CO August 12-14, 2004 and that she would like to send Tim Buseman to the workshop. Motion by Fischer, second by Eisnach, to approve sending Tim to the workshop. Motion carried.

The executive director asked for clarification as to who could sign closing statements. The commission was in agreement that a broker associate could sign closing statements.

Discussion was held on license renewals and the problems the staff encounter each year with the renewals. Following discussion, the commission directed the staff to send all renewals with a list of those renewing to the responsible broker for their handling with the licensees.

Discussion was held on the home inspector statutes and the need to amend the statutes. The executive director informed the commission that the home inspector task force will be holding another meeting and that this will be discussed.

June minutes, page 2

Discussion was held on a means of issuing citations to licensees for various license law violations in lieu of filing a complaint.

The commission recessed at 3:50 p.m. and reconvened at 8:30 a.m. on June 17, 2004.

Discussion was held on Commission appointments.

Motion by Eisnach, second by Jackson, to enter into executive session at 8:55 a.m. Motion carried.



Brenda Aesoph, a broker associate from Watertown, appeared before the commission with a request for an experience waiver to open her own office.

Motion by Eisnach, second by Jackson, to come out of executive session at 9:20 a.m. Motion carried.

Motion by Fischer, second by Jackson, to grant the experience waiver to Brenda Aesoph. Motion carried.

Motion by Eisnach, second by Larkin, to enter into executive session at 9:45 a.m. Motion carried.

Amy Arndt, representing Marcie Roggow, appeared before the commission with a motion to dismiss the complaint filed against Marcie by the commission.

Motion by Larkin, second by Fischer, to come out of executive session at 10:20 a.m. Motion carried.

Motion by Eisnach, second by Larkin, to dismiss the complaint filed against Marcie Roggow. Motion carried.

Motion by Fischer, second by Jackson, to enter into executive session at 10:25 a.m. Motion carried.

The meeting recessed for lunch at 11:55 a.m. and reconvened at 1:10 p.m.

The informal consultation on complaint #2004-019, Landgraff vs. Charles J. Fischer Agency/Charles Fischer/John Fischer was convened at 1:15 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, complainant Fred Landgraff and respondents Charles Fischer and John Fischer. The consultation concluded at 2:30 p.m.

Motion by Jackson, second by Larkin, to come out of executive session at 4:08 p.m. Motion carried.

Findings of Fact, Conclusions of Law, and Proposed Decision on Pat Fines, Maxine Hawke, Scott Enebo and AMERI/STAR Real Estate, Inc.. Motion by Jackson, second by Larkin to amend the proposed decision of Hearing Officer Hillary Brady and that Scott Enebo pay a fine of \$500, pay costs of the action, complete 12 hours of continuing education with 6 hours to be in

June minutes, page 3

agency and 6 hours in contracts and have the executive director write him a letter of admonishment. The complaint against Pat Fines, Maxine Hawke and AMERI/STAR Real Estate, Inc. is dismissed. Motion carried with Eisnach abstaining.

Findings of Fact, Conclusions of Law and Proposed Decision on Helen Hermanson, Jeff Koch and AMERI/STAR Real Estate, Inc.. Motion by Larkin, second by Fischer to adopt the proposed decision of Hearing Officer Hillary Brady to dismiss the complaint against Helen Hermanson, Jeff Koch and AMERI/STAR Real Estate, Inc. Motion carried with Eisnach abstaining.

Findings of Fact, Conclusions of Law and Proposed Decision on Pat Fines and AMERI/STAR Real Estate, Inc. Motion by Larkin, second by Fischer, to adopt the proposed decision of Hearing Officer Hillary Brady to dismiss the complaint against Pat Fines and AMERI/STAR Real Estate, Inc. Motion carried with Eisnach abstaining.

Findings of Fact, Conclusions of Law and Proposed Decision on Yvette VanDerBrink, Ed Elbers and All States Realty, Inc. Motion by Jackson, second by Larkin, to amend the proposed decision of Hearing Officer Julie Johnson to stay the 6 month suspension of the license of Yvette VanDerBrink and that she complete 24 hours of continuing education in agency law, contracts and license law in South Dakota and that she pay a fine of \$1,000 and costs of the action. Adopt the proposed decision of Hearing Officer Julie Johnson that Ed Elbers pay a fine of \$500 and amend the proposed decision that he complete 12 hours of continuing education with 6 hours to be in agency and 6 hours in license law in South Dakota. To amend the proposed decision of Hearing Officer Julie Johnson to stay the revocation of the license of All States Realty, Inc. and adopt the decision to a fine of \$1,000. Motion carried with Eisnach

abstaining.

Findings of Fact, Conclusions of Law and Proposed Decision on Larry Janssen, Wayne Goedken, Janssen Realty and DairyNet Realty. Motion by Jackson, second by Fischer, to affirm the proposed decision of Hearing Officer Julie Johnson to the following: that the license of Wayne Goedken be revoked, he pay a penalty of \$2,500 and that he reimburse the commission for costs of the proceeding, Janssen Realty be assessed a penalty of \$1,000 and Larry Janssen pay a penalty of \$1,000 and complete continuing education as determined by the commission. Delete the last four paragraphs of the proposed decision as the commission has no jurisdiction over DairyNet Realty, DairyNet 2000 and Dan Little, therefore, no disciplinary action can be enforced. Motion carried with Eisnach abstaining.

Motion by Fischer, second by Eisnach, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Charles Fischer and John Fischer that each pay a penalty of \$250, reimburse the commission for costs of the investigation, that they send in the paper work on their next 5 real estate transactions to include ledger sheets and trust account reconciliation and that they each complete 12 hours of continuing education with at least 6 hours to be in contracts. Motion carried.

Complaint #2004-021, Hamilton/Clayborne vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Dreyer. Motion by Jackson, second by Eisnach, to move to a formal hearing. Motion carried.

Motion by Eisnach, second by Fischer, to deny the complaint filed by Stu & Linda Nichols against Marvin Matkins for lack of jurisdiction. Motion carried.

June minutes, page 4

Motion by Jackson, second by Eisnach, to enter into executive session at 4:15 p.m. Motion carried.

Motion by Eisnach, second by Larkin, to come out of executive session at 4:35 p.m. Motion carried.

Discussion was held on the matter involving Valeree Perlick, a licensed residential rental agent. Following discussion, Fischer moved, seconded by Jackson, to file a formal complaint against Valeree Perlick. Motion carried.

The commission reviewed the letterhead and signature on a letter that the executive director had received. Following discussion, Eisnach moved, seconded by Fischer, to file a formal complaint against Todd and Dale McPherson and file an injunction against Kevin McPherson. Motion carried.

The meeting recessed at 5:00 p.m. and reconvened at 8:40 a.m. on June 18, 2004.

Commission member Charles Larkin was absent from meeting.

The commission reviewed a request from Robin Deming for a temporary application approval. Following discussion, Eisnach moved, seconded by Fischer, to approve the request for a temporary application approval on the basis of the information received. Motion carried.

The executive director informed the commission that Shirley Sneesby has not complied with the Stipulation and Assurance of Voluntary Compliance as to the completion of 6 hours of continuing education in license law that was to be completed by June 16, 2004. Motion by Jackson, second by Eisnach, to file a formal complaint with the intent of revoking the license for failing to comply. Motion carried.

Lynette Bernard appeared before the commission with a request for a temporary application approval.

Motion by Jackson, second by Fischer, to enter into executive session at 9:20 a.m. Motion carried.

Motion by Eisnach, second by Fischer, to come out of executive session at 9:25 a.m. Motion carried. Motion by Eisnach, second by Fischer, to approve the request for a temporary application approval of Lynette Bernard based on the information received. Motion carried.

Commission member Eismach left the meeting at 9:30 a.m.

Chairman Loren Anderson at 9:35 convened the formal hearing on the application appeal of Duane Simons. Present for the hearing were commission members Eileen Fischer and Brian Jackson. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling and applicant Duane Simons. Chairman Anderson declared the hearing closed at 9:50 a.m.

June minutes, page 5

Motion by Fischer, second by Jackson, to enter into executive session at 9:52 a.m. +Motion carried.

Motion by Fischer, second by Jackson, to come out of executive session at 9:57 a.m. Motion carried.

Motion by Jackson, second by Fischer, to approval the application of Duane Simons. Motion carried.

The executive director asked for clarification as to whether auctioneers should receive a closing statement when they do not handle the closing. Following discussion, the commission agreed that an auctioneer does not need a closing statement if they do not handle the closing.

The commission reviewed a listing contract form received from Chuck Sutton and felt that the format of the form met the requirements of the commission.

The commission reviewed and discussed a change on the purchase agreement made by the Sioux Falls MLS.

The next meeting of the commission will be held August 4, 5 & 6, 2004 in Pierre.

There being no further business, Jackson moved, seconded by Fischer, to adjourn at 10:55 a.m. Motion carried.

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Loren Anderson, Chairman

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Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on June 16, 17 & 18, 2004.

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Dee Jones Noordermeer, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION

MAY 3, 4 & 5, 2004

HOLIDAY INN EXPRESS

110 EAST STANLEY ROAD

FORT PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:36 p.m. on May 3, 2004 in the Conference Room of the Holiday Inn Express, Fort Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and commission members Eileen Fischer and Brian Jackson. Commission members Charles Larkin and Dennis Eisnach were absent from the meeting on May 3, 2004. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and secretary Norma Schilling.

Motion by Jackson, second by Fischer, to approve the minutes of the March 22, 23 & 24, 2004 meeting. Motion carried.

Motion by Jackson, second by Fischer, to accept the financial report for March 2004. Motion carried.

The executive director informed the Commission that Barbara Stoick has completed her education requirements so no action is necessary on Item 16 of the agenda.

The executive director briefed the commission on the task force meeting that was held April 14, 2004 regarding inspection reports, education and other issues involving home inspectors. The executive director was instructed by the commission to check on E & O coverage with the present group provider for home inspectors.

Motion by Jackson, second by Fischer, to enter into executive session at 1:58 p.m. Motion carried.

The informal consultation on complaint #2004-012, Baldwin vs. A & A Professional Property Management, Inc./Riss was convened by Chairman Anderson at 2:00 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling and respondent Mary Riss. The consultation concluded at 2:15 p.m.

Motion by Jackson, second by Fischer, to come out of executive session at 2:30 p.m. Motion carried.

Motion by Jackson, second by Fischer, to dismiss the complaint against Mary Riss and have the executive director write a letter to Ms. Riss suggesting that she attend a 6 hour course in license law and also include in the letter any other information the executive director deems necessary. Motion carried.

The executive director informed the commission that another state agency visited with her regarding the possible transfer of the regulation of mobile home dealers to the Real Estate Commission.

May minutes, page 2

The executive director informed the commission that she had received a proposal from Debbie Long for an instructor/course development workshop.

Motion by Jackson, second by Fischer, to enter into executive session at 3:00 p.m. Motion carried.

The informal consultation on complaint #2004-009, Huffman vs. The Real Estate Center/Eaton & Fred Ening Real Estate/Ening was convened at 3:05 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, complainants Louis and Janice Huffman, Melvin Eaton, responsible broker Rich Harr and respondents Cathy Eaton and Fred Ening. Commission member Dennis Eisnach joined the consultation at 3:25 p.m. The consultation concluded at 4:00 p.m.

Motion by Eisnach, second by Fischer, to come out of executive session at 4:55 p.m. Motion carried.

Motion by Jackson, second by Fischer, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Cathy Eaton and Fred Ening that each pay a fine of \$350 and complete 6 hours of continuing education in agency. Motion carried with Eisnach abstaining.

The meeting recessed at 5:00 p.m. and reconvened at 8:30 a.m. on May 4, 2004.

Commission member Larkin joined the meeting on May 4, 2004. Commission member Eisnach was not present for the meeting on May 4, 2004.

The executive director informed the commission that the office had received a new broker associate application from Bernard Haag requesting that the commission reconsider his application because he had fulfilled all his judgments since the denial of his previous application. Following discussion, Larkin moved, seconded by Fischer, to grant a broker associate license to Bernard Haag and have the executive director write him a letter informing him that he will not be able to hold a trust account when he is eligible to become a responsible broker and if he would want to open his own office. Motion carried.

Motion by Jackson, second by Fischer, to enter into executive session at 8:50 a.m. Motion carried.

Chairman Loren Anderson at 9:00 a.m. convened the formal hearing on the application appeal of Steve Folk. Present for the hearing were commission members Eileen Fischer, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, court reporter Carla Bachand and applicant Steve Folk. Chairman Anderson declared the hearing closed at 9:10 a.m.

Motion by Larkin, second by Jackson, to come out of executive session at 9:15 a.m. Motion carried.

Motion by Larkin, second by Jackson, to grant a responsible broker license to Steve Folk. Motion carried.

May minutes, page 3

Further discussion was held on the proposal for the instructor/course development workshop. Motion by Jackson, second by Fischer, to approve the proposal of Debbie Long for an instructor/course development workshop. Motion carried.

Further discussion was held on the home inspector task force meeting. The executive director was instructed to invite a home inspector to the next meeting to discuss concerns on the home inspection reports.

Discussion was held on a draft form for meth disclosure. The commission suggested that "in the housing" be changed to "on the property".

Discussion was held on a temporary license application approval. The commission suggested that a form be included with the material from instructors to the potential applicant for a request to appear before the commission prior to taking the classes.

Hearing Officer Julie Johnson at 10:00 a.m. convened the formal hearing on complaint #2004-005, SDREC vs. All States Realty/Elbers/VanDerBrink. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, court reporter Carla Bachand, defendants Edwin Elbers and Yvette VanDerBrink and their attorney Roger Hunt and witnesses Pat Fines, Joyce Oatfield and Tony Bosch. The hearing closed at 1:31 p.m.

Hearing Officer Julie Johnson at 2:25 p.m. convened the formal hearing on complaint #2004-008, SDREC vs. Janssen Realty/Janssen/Goedken. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, court reporter Carla Bachand, defendants Larry Janssen and Wayne Goedken and their attorney Justin Hyde, Shawn Howe and witnesses David Howe, Jim Tesch and Rod Kemink. The hearing closed at 5:02 p.m.

The meeting recessed at 5:40 p.m. and reconvened at 8:30 a.m. on May 5, 2004.

Motion by Jackson, second by Larkin, to enter into executive session at 8:35 a.m. to review complaints. Motion carried.

Motion by Larkin, second by Jackson, to come out of executive session at 9:45 a.m. Motion carried.

Complaint #2003-011, SDREC vs. Chell REALTORS/Chell/Young. Motion by Larkin, second by Jackson, to dismiss the complaint. Motion carried.

Complaint #2004-018, Wing vs. United Real Estate Solutions/Peterson & Century 21 Davenport & Associates/Armstrong. Motion by Jackson, second by Larkin, to defer any action until after the civil lawsuit has been resolved. Motion carried.

Complaint #2004-019, Landgraff vs. Charles J. Fischer Agency/Charles Fischer/John Fischer. Motion by Jackson, second by Fischer, to hold an informal consultation. Motion carried.

May minutes, page 4

Complaint #2004-020, Lokkeberg vs. Chell REALTORS, Inc./Chell. Motion by Larkin, second by Jackson, to dismiss the complaint and have the executive director write a letter to Mr. Chell regarding inadequacies. Motion carried.

Motion by Larkin, second by Fischer, to approve the meth disclosure form as discussed. Motion carried.

Dennis Eisnach joined the meeting at 10:00 a.m.

Discussion was held on appointed agency. The commission will review the material handed out and discuss at a future meeting.

Motion by Jackson, second by Larkin, to appoint Loren Anderson, Eileen Fischer and Dee Jones Noordermeer to a legislative task force. Motion carried.

Discussion was held on the ARELLO Southern/Central District Conference in Charleston, SC June 24-26, 2004. Motion by Jackson, second by Fischer, to submit a request for 3 commission members to attend the conference. Motion carried.

Discussion was held on the Annual ARELLO Conference to be held in Pittsburgh, PA October 2-5, 2004. Motion by Larkin, second by Eisnach, to submit a request for all 5 commission members to attend the conference. Motion carried.

The next meeting of the Commission will be held June 16, 17 & 18, 2004 in Pierre.

There being no further business, Larkin moved, seconded by Jackson, to adjourn at 11:15 a.m. Motion carried.

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on Mary 3, 4 & 5. 2004.

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SOUTH DAKOTA REAL ESTATE COMMISSION

MARCH 22, 23 & 24, 2004

RAMADA LIMITED

407 S LYONS

SIOUX FALLS, SOUTH DAKOTA

The South Dakota Real Estate commission convened at 1:30 p.m. on March 22, 2004 in the Conference Room of the

Ramada Limited, Sioux Falls, South Dakota. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Nancy Ekstrum, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling and auditor/investigator Tim Buseman.

Motion by Anderson, second by Jackson, to approve the minutes of the February 4 & 5, 2004 meeting with correction to page 4, paragraph 6, changing the word "complete" to "complaint". Motion carried.

Motion by Anderson, second by Ekstrum, to accept the financial reports for January & February 2004. Motion carried.

Motion by Anderson, second by Ekstrum, to enter into executive session at 1:45 p.m. Motion carried.

The informal consultation on complaint #2004-010, Wingen vs. Madison Realty, Inc./Moothart was convened by Chairman Berven at 1:50 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, auditor/investigator Tim Buseman, complainant Tim Wingen and his attorney Tom Johnson, respondent Marilyn Moothart and her attorney Dick Ericsson and responsible broker Jeff Lechner. The consultation concluded at 2:58 p.m.

Amy Arndt, legal counsel for Marcie Roggow, appeared before the Commission with a Motion for a Continuance on the complaint of the SDREC vs. Marcie Roggow. Amy Arndt requested that the complaint be converted to an informal consultation.

Motion by Jackson, second by Larkin, to come out of executive session at 4:25 p.m. Motion carried.

Discussion was held with Tim Buseman regarding audits of real estate companies.

Motion by Larkin, second by Jackson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Marilyn Moothart to a penalty of \$250, 12 hours of continuing education in agency and the reimbursement of costs of \$100. If Stipulation and Assurance of Voluntary Compliance is not accepted then move to a formal hearing. Motion carried.

Motion by Jackson, second by Ekstrum, to deny the motion to convert to an informal consultation on the complaint of SDREC vs. Marcie Roggow. Motion carried.

Motion by Larkin, second by Jackson, to dismiss the complaint against Jeff Lechner and Madison Realty. Motion carried.

Discussion was held on the letter received from Rice Insurance Services Company stating that real estate firms are covered through the broker.

Discussion was held on the Memo to Buyer form. Following discussion, the commission agreed that the form could be used if the word "favorably" was removed from the form.

The meeting recessed at 4:50 p.m. and reconvened at 8:30 a.m. on March 23, 2004.

Motion by Larkin, second by Jackson, to enter into executive session at 8:35 a.m. to review complaints. Motion carried.

March minutes, page 2

Motion by Jackson, second by Larkin, to come out of executive session at 9:20 a.m. Motion carried.

Complaint #2004-012, Baldwin vs. A & A Professional Property Management, Inc./Riss. Motion by Anderson,

second by Ekstrum, to hold an informal consultation. Motion carried.

Complaint #2004-017, Olson vs. Prudential Kahler REALTORS/Rinehart. Motion by Larkin, second by Jackson, to dismiss the complaint. Motion carried.

The executive director reported to the Commission on an incident in Rapid City involving a residential rental agent. The executive director was instructed to have a formal complaint filed against the residential rental agent.

Discussion was held on temporary license approval. Motion by Ekstrum, second by Larkin, to suggest to the real estate instructors that they include statute 36-21A-33 on the application completed by individuals enrolled in their courses. The student would then have a choice to either enroll in the course or contact the executive director to petition the Commission for an opinion as to possibility of license approval. Motion carried.

Discussion was held on the renewal survey. The commission suggested that office staff submit proposals to the commission on possible changes in the renewal process and also review fees currently charged to see if an increase is necessary.

Discussion was held on a Motion for Continuance on the complaint of the SDREC vs. Janssen Realty/Janssen/Goedken. Motion by Jackson, second by Anderson, to deny the request for a continuance and proceed with a formal hearing at the next meeting. Motion carried.

The executive director gave an update on the legislative task force.

The executive director informed the commission on the upcoming REEA Conference in San Antonio, Texas and that she would like to send Josh Ring the education director to the conference. Motion by Anderson, second by Jackson, to approve the attendance of Josh Ring at the conference. Motion carried.

The executive director asked for clarification on requalifying for licensure and whether past experience can be considered on a license that has expired. Following discussion, the commission agreed that experience received prior to nonrenewal of a license would not be considered toward upgrade to a responsible broker.

The commission reviewed the broker associate application of Sean Brady. Motion by Larkin, second by Jackson, to approve the application of Sean Brady. Motion carried.

The executive director informed the commission that she had received a call from Bernard Haag asking if his application could be approved if his judgments were paid. The commission instructed the executive director to inform Mr. Haag that he could request to reappear before the commission after all judgments are paid.

The executive director asked the commission for their input on sponsoring a course development and instructor development workshop. The commission instructed the executive director to pursue this avenue and to check on costs, an instructor, when it could be held and how many course providers would attend.

The commission recessed for lunch at 11:30 a.m. and reconvened at 1:15 p.m.

Hearing officer Hillary Brady at 1:30 p.m. convened the formal hearing on complaint #2004-011, SDREC vs. Coldwell Banker GKR & Associates/Hermanson & AMERI/STAR Real Estate/Koch. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, auditor/investigator Tim Buseman, court reporter Audrey Barbush, defendant Jeff Koch and his attorney Gregg Greenfield, defendant Helen Hermanson and her attorney Tom Wilka, responsible brokers Tim Johnson and Jim Costello, Dan Koch and witnesses Sam Trebilcock, Cheryl Nelson and Steve Nelson. The hearing closed at 4:40 p.m.

March minutes, page 3

Hearing officer Hillary Brady at 4:55 p.m. convened the formal hearing on complaint #2004-007, SDREC vs.



AMERI/STAR Real Estate/Fines/Hawke/Enebo. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, auditor/investigator Tim Buseman, court reporter Audrey Barbush, defendants Pat Fines, Maxine Hawke, Scott Enebo and their attorney Gregg Greenfield, responsible broker Jim Costello, witnesses Michael Gillispie and Janine Gillispie. The hearing closed at 5:45 p.m.

Hearing officer Hillary Brady at 6:00 p.m. convened the formal hearing on complaint #2004-14, SDREC vs. AMERI/STAR Real Estate/Fines. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, auditor/investigator Tim Buseman, court reporter Audrey Barbush, defendant Pat Fines and his attorney Gregg Greenfield, responsible broker Jim Costello, witnesses Pamela Ward and David Ward. The hearing closed at 7:10 p.m.

The meeting recessed at 7:15 p.m. and reconvened at 8:30 a.m. on March 24, 2004.

This being the last meeting for Chairman Berven an election of officers was held. Chairman Berven opened nominations. Jackson nominated Anderson for Chairman and Larkin for Vice-Chairman and moved that nominations cease. Ekstrum seconded. Motion carried with Anderson and Larkin elected.

Discussion was held on the formal hearings held the previous day.

The next meeting of the Commission will be held May 3, 4 & 5, 2004 in Pierre.

There being no further business, Ekstrum moved, seconded by Anderson, to adjourn at 9:30 a.m. Motion carried.

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on March 22, 23 & 24, 2004.

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SOUTH DAKOTA REAL ESTATE COMMISSION

FEBRUARY 4 & 5, 2004

SOLDIERS & SAILORS BUILDING

425 EAST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:30 p.m. on February 4, 2004 in the 2<sup>nd</sup> Floor Conference Room of the Soldiers and Sailors Building, Pierre, South Dakota. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Nancy Ekstrum, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and secretary Norma Schilling.

Josh Ring the new education director was introduced to the Commission.

Motion by Anderson, second by Larkin, due to the parking availability that all future meetings held in the Soldiers and Sailors building will start at 12:30 p.m. Motion carried.

Motion by Anderson, second by Jackson, to approve the minutes of the November 24 & 25, 2003 meeting. Motion carried.

Motion by Jackson, second by Ekstrum, to approve the minutes of the January 9, 2004 telephonic meeting. Motion carried.

Motion by Anderson, second by Jackson, to accept the financial report for November 2003. Motion carried.

Motion by Anderson, second by Larkin, to accept the financial report for December 2003. Motion carried.

Mike Alley, Ken Reder, Linda Rausch, Amy Bochman, Marcie Roggow, Linda Dunham, Emma Laird and Dan Specht joined the meeting at 1:50 p.m.

Discussion was held on a notice received that firms would no longer be covered under the E & O policy. Motion by Anderson, second by Jackson, to have legal counsel write a letter to Rice Insurance Company Services regarding the coverage for firms in the policy. Motion carried.

Linda Dunham from the REALTOR Association of the Sioux Empire, Inc. spoke to the Commission on Virtual Office Websites. She informed the Commission that Sioux Falls agents want to be able to create an agency relationship with the consumer via the virtual office website. Following discussion, Anderson moved, seconded by Larkin, that the use of electronic media and brokeraging come under current laws and rules. Motion carried.

Visitors left the meeting at 3:25 p.m.

The Commission reviewed the request for waiver of education for Earl Ferguson. Motion by Larkin, second by Jackson, to deny the request for waiver of education and place the license on an inactive status until such time as he completes his continuing education. Motion carried.

February minutes, page 2

Chairman Jim Berven at 3:55 p.m. convened the formal hearing on the application appeal of Eric Vetter. Present for the hearing were commission members Loren Anderson, Nancy Ekstrum, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling and applicant Eric Vetter. Chairman Berven declared the hearing closed at 4:05 p.m.

Motion by Larkin, second by Anderson, to enter into executive session at 4:05 p.m. Motion carried.

Motion by Jackson, second by Larkin, to come out of executive session at 4:10 p.m. Motion carried.

Motion by Anderson, second by Jackson, to approve the broker associate application of Eric Vetter. Motion carried.

Discussion was held on legislation. Motion by Anderson, second by Jackson, that the commission reaffirm their position on appointed agency. Motion carried. Motion by Ekstrum, second by Jackson, that a legislative task force be formed consisting of 4 members from the industry appointed by the Association of REALTORS, 2 members of the commission and the executive director to promulgate rules for appointed agency and virtual office websites and to authorize the payment of expenses. Motion carried.

Discussion was held on various legislative bills that may have an effect on the Real Estate Commission.

Commission member Larkin left the meeting at 5:05 p.m.

After discussion, the commission agreed to convene the meeting at 8:00 a.m. on February 5, 2004 due to parking availability.

The meeting recessed at 5:10 p.m. and reconvened at 8:00 a.m. on February 5, 2004.

Discussion was held on the complaint process. The Commission agreed that it would be a policy that all complaints

are to be reviewed by the Commission even though the complainant may have withdrawn the complaint. A letter is to accompany each complaint form sent out with the complaint procedure. Motion by Anderson, second by Jackson, that the investigators be in attendance at the meeting while complaints are being reviewed. Motion carried.

Commission member Larkin joined the meeting at 8:30 a.m.

Discussion was held on SB 84 regarding the disclosure of the prior manufacturing of methamphetamines by sellers and lessors. The Commission invited Senator Ed Olson, sponsor of the bill, to join the meeting.

Discussion was held on HB 1250 which provides for the regulation of escrow agents. The executive director was instructed to invite Representative Stan Adelstein, sponsor of the bill, to attend a future meeting to discuss his intent with the bill.

February minutes, page 3

Discussion was held on the renewal process. The executive director was instructed to contact other states to see how they handle late renewals.

Senator Ed Olson and Dean Krogman joined the meeting at 9:35 a.m. to discuss Senate Bill 84. Following discussion, the Commission agreed to support Senate Bill 84 to design a form for the disclosure of prior manufacturing of methamphetamines for sellers and lessors. Senator Ed Olson and Dean Krogman left the meeting at 9:55 a.m.

Discussion was held regarding temporary application approval. The matter was deferred to the next meeting.

Chairman Jim Berven at 10:45 a.m. convened the formal hearing on the application appeal of Bernard Haag. Present for the hearing were commission members Loren Anderson, Nancy Ekstrum, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling and applicant Bernard Haag. Chairman Berven declared the hearing closed at 11:10 a.m.

Motion by Larkin, second by Ekstrum, to enter into executive session at 11:10 a.m. Motion carried.

Motion by Ekstrum, second by Anderson, to come out of executive session at 11:25 a.m. Motion carried.

Motion by Ekstrum, second by Jackson, to deny the broker associate application of Bernard Haag unless information he is to provide gives further information to change the Commission's decision. Motion carried.

The Commission recessed for lunch at 11:30 a. m. and reconvened at 12:45 p.m.

Motion by Larkin, second by Jackson, to enter into executive session at 12:45 p.m. to review complaints. Motion carried.

Motion by Larkin, second by Anderson, to come out of executive session at 3:25 p.m. Motion carried.

Nancy Peck joined the meeting at 1:45 p.m.

Complaint #2003-031, SDREC vs. Dakota Hills Realty/Hageman. Motion by Larkin, second by Anderson, to dismiss the complaint. Motion carried.

Complaint #2004-005, Fines vs. All States Realty/Elbers/VanDerBrink. Motion by Larkin, second by Jackson, to move to a formal hearing. Motion carried.

Complaint #2004-006, VanDerBrink vs. AMERI/STAR Real Estate/Fines. Motion by Larkin, second by Jackson, to dismiss the complaint without prejudice. Motion carried.

Complaint #2004-007, Gillispie vs. AMERI/STAR Real Estate/ Fines/Hawke/Enebo. Motion by Jackson, second by Anderson, to move to a formal hearing. Motion carried.

February minutes, page 4

Complaint #2004-009, Huffman vs. The Real Estate Center/Eaton & Fred Ening Real Estate/Ening. Motion by Anderson, second by Jackson, to hold an informal consultation. Motion carried.

Complaint #2004-010, Wingen vs. Madison Realty, Inc./Moothart. Motion by Jackson, second by Larkin, to hold an informal consultation. Motion carried.

Motion by Ekstrum, second by Anderson, to file a formal complaint against Marcie Roggow for the practice of law. Motion carried.

Complaint #2004-011, Nelson vs. Coldwell Banker GKR & Associates/Hemanason & AMERI/STAR Real Estate/Koch. Motion by Jackson, second by Anderson, to move to a formal hearing. Motion carried.

Complaint #2004-012, Baldwin vs. A & A Professional Property Management, Inc./Riss. The Commission instructed the executive director to proceed with an investigation of the complaint.

Complaint #2004-013, Stotts vs. Rapid Realty/Young. Motion by Anderson, second by Ekstrum, to dismiss the complete with a letter of admonishment to the licensee. Motion carried.

Complaint #2004-014, Ward vs. AMERI/STAR Real Estate/Fines. Motion by Jackson, second by Anderson, to move to a formal hearing. Motion carried.

Complaint #2004-015, Olsen vs. Susan Sharp. Motion by Anderson, second by Jackson, to dismiss the complaint. Motion carried.

Complaint #2004-016, Schwarz vs. Raben Real Estate/Davis. Motion by Jackson, second by Ekstrum, to dismiss the complaint. Motion carried.

Discussion was held on rebates/inducements. The Commission reviewed an ad on a broker's moving trucks. The Commission instructed the executive director to direct the broker to remove certain wording construed as an inducement from the trucks. The Commission also reviewed coupons being used as an inducement and instructed the executive director to notify the broker involved that this was unprofessional conduct.

Discussion was held on the real estate agency disclosure form. After review, the commission agreed to continue the use of the form with no changes made.

The executive director informed the Commission that the ARELLO Midyear Meeting is April 22-24, 2004 in Omaha, NE. Motion by Anderson, second by Ekstrum, to submit a request for up to 3 commission members to attend the meeting. Motion carried.

The executive director informed the Commission that a CLEAR Investigators Basic Training is being held in Richmond, VA May 10-12, 2004 and that she would like to send Nancy Peck and Tim Buseman. Motion by Anderson, second by Larkin, to approve the attendance of Nancy and Tim at the CLEAR Investigators Basic Training. Motion carried.

February minutes, page 5

Discussion was held on reciprocal licenses. In order for an individual licensed by reciprocity to hold an active license in South Dakota that licensee must hold an active license in their resident state.

The next meeting of the Commission will be held March 22, 23 & 24, 2004 in Sioux Falls.

There being no further business, Jackson moved, seconded by Ekstrum, to adjourn at 5:10 p.m. Motion carried.

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on February 4 & 5, 2004.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**JANUARY 9, 2004**

**TELEPHONIC MEEETING**

The South Dakota Real Estate Commission convened telephonically at 2:00 pm on January 9, 2004. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Nancy Ekstrum, Brian Jackson, and Charles Larkin. Also present was executive director Dee Jones Noordermeer.

Jim Berven informed the members that he wished to discuss the status of the appointed agency bill. After much discussion, Loren Anderson made a motion that the Real Estate Commission would support the appointed agency bill if introduced in the 2004 legislative session and that Chairman Berven and the executive director be authorized to proceed through the proper channels in support of this bill on behalf of the Commission. Second by Jackson. Motion carried.

There being no further business, Larkin moved, seconded by Anderson, to adjourn at 2:30 p.m. Motion carried.

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission telephonic meeting held on January 9, 2004.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**NOVEMBER 24 & 25, 2003**

**SOLDIERS & SAILORS BUILDING**

**425 EAST CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 10:00 a.m. on November 24, 2003 in the 2<sup>nd</sup> Floor Conference Room of the Soldiers and Sailors Building, Pierre, South Dakota. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Brian Jackson, and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer and secretary Norma Schilling.

Motion by Larkin, second by Jackson, to approve the minutes of the September 29, 2003 meeting. Motion carried.

Motion by Jackson, second by Anderson, to accept the financial reports for September and October 2003. Motion carried.

The executive director gave the following report to the commission on updates in the office. Cell phones were ordered for the executive director and the two auditors. Nancy Ekstrum from Philip has been appointed as the new commission member. Josh Ring from Sioux Falls has been hired as the new education director. Voice mail has been added to the second line on the main phone. An assigned vehicle has been requested for the auditor in Sioux Falls. Auditors are now pulling files on each licensee when audits are conducted.

Legal counsel informed the commission that due to health reasons Mrs. Patton would not be able to attend to testify at a formal hearing on Wayne Hageman. After hearing the options the commission agreed to have Mrs. Patton appear telephonically at the formal hearing.

The executive director informed the commission that she had invited Michelle Kleven, Andy Mahowald and Jeff Nelson to the commission meeting on Tuesday to discuss the proposed bill regarding appointed agency.

Chairman Jim Berven at 11:20 a.m. convened the formal hearing on complaint #2004-001, SDREC vs. Deadwood Realty/Neiderworder/Sneesby. Present for the hearing were commission members Loren Anderson, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling, court reporter Cheri Wittler, defendants Garry Neiderworder and Shirley Sneesby and witness Larry Lyngstad. The hearing closed at 12:20 p.m.

The commission recessed for lunch at 12:30 p.m. and reconvened at 1:30 p.m.

Motion by Larkin, second by Jackson, to enter into executive session at 1:40 p.m. Motion carried.

Motion by Larkin, second by Anderson, to come out of executive session at 2:10 p.m. Motion carried.

November minutes, page 2

Motion by Jackson, second by Anderson, to find defendants Garry Neiderworder and Shirley Sneesby guilty of unprofessional conduct and that each pay the \$500 from a previous Stipulation and Assurance of Voluntary Compliance, they reimburse costs of the hearing and each complete 12 hours of continuing education in license law. Motion carried.

Discussion was held on inducements. The commission instructed the executive director to research other states to see if inducements are allowed and put this back on an agenda for another meeting.

Motion by Anderson, second by Larkin, that based upon the information received by a broker, this appears to be an inducement and the commission needs a more detailed explanation on the proposal. Motion carried.

Discussion was held on predatory lending. The commission instructed the executive director to invite a member of the Association of Banking to attend the next commission meeting to discuss predatory lending.

The executive director presented the commission with continuing education waivers. Following review, Jackson moved, seconded by Anderson to deny the request for a continuing education waiver on Clarence Junker and to request a medical statement for Melvin Merchen from his attending physician. Motion carried.

Motion by Jackson, second by Anderson, to enter into executive session at 3:35 p.m. to review complaints.

Motion by Larkin, second by Jackson, to come out of executive session at 3:50 p.m. Motion carried.

Complaint #2004-003, Steeter/Cropley vs. Davis Realty/Kougl. Motion by Anderson, second by Jackson, to dismiss the complaint and have the executive director write a letter to Michael Kougl. Motion carried.

Complaint #2004-004, Kneip/Tucker vs. Nancy Walter Realty/Walter & Norgaard-Amman & Co./Norgaard. Motion by Larkin, second by Jackson, to dismiss the complaint. Motion carried.

Commission member Larkin left the meeting at 3:55 p.m.

Motion by Anderson, second by Jackson, to enter into executive session at 3:56 p.m. Motion carried.

Motion by Jackson, second by Anderson, to come out of executive session at 4:05 p.m. Motion carried.

Complaint #2003-034, Janssen vs. Kemink Land Co./Kemink & Century 21 Advantage II/Tesch. Motion by Jackson, second by Anderson, to combine with complaint #2004-008, SDREC vs. Janssen Realty/Janssen/Goedken and move to a formal hearing. Commission member Larkin recused himself from the complaints. Motion carried.

The meeting recessed at 4:05 p.m. and reconvened at 8:30 a.m. on November 25, 2003.

November minutes, page 3

Discussion was held on the proposed appointed agency bill.

Jeff Nelson, Andy Mahowald, Michelle Kleven and Darci Hustrulid joined the commission meeting at 9:05 a.m. to discuss the proposed legislation on appointed agency. The Association of REALTORS will try to call a meeting of the Governmental Affairs Committee to discuss issues on this bill. Nelson, Mahowald, Kleven and Hustrulid left the meeting at 10:05 p.m.

Chairman Berven at 10:20 a.m. convened the formal hearing on the application appeal of C. Don Powell. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Dee Jones Noordermeer, secretary Norma Schilling and Don Powell. Chairman Berven declared the hearing closed at 10:30 a.m.

Motion by Larkin, second by Jackson, to approve the home inspection application of Don Powell. Motion carried.

The executive director asked the commission for guidance on the procedure for handling inquiries of individuals with felony convictions who wish to obtain approval to obtain a real estate license prior to enrolling in a prelicensing class. The commission instructed her to proceed as in the past by informing the individual to complete the education, testing and application and upon denial of the application, request an appeal.

The next meeting of the commission will be February 4 & 5, 2004 in Pierre.

There being no further business, Larkin moved, seconded by Anderson, to adjourn at 10:45 a.m. Motion carried.

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on November 24 & 25, 2003.

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SOUTH DAKOTA REAL ESTATE COMMISSION

SEPTEMBER 29, 2003

PUBLIC SAFETY BUILDING

118 WEST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 9:00 a.m. on September 29, 2003 in the Conference Room of the Public Safety Building, Pierre, South Dakota. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Charles Larkin and Judy Wittrig. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, Dee Jones Noordermeer and Tim Buseman. Commission member Brian Jackson was not present for the meeting.

Chairman Berven introduced Timothy Buseman, the new auditor/investigator from the Sioux Falls office.

Motion by Anderson, second by Larkin, to approve the minutes of the August 18, 19 & 20, 2003 meeting. Motion carried.

Motion by Anderson, second by Wittrig, to approve the minutes of the September 11, 2003 meeting. Motion carried.

Motion by Larkin, second by Anderson, to accept the financial reports for July & August 2003. Motion carried.

Motion by Larkin, second by Wittrig, to enter into executive session at 9:20 a.m. to review complaints. Motion carried.

Motion by Wittrig, second by Anderson, to come out of executive session at 9:53 a.m. Motion carried.

Complaint #2004-002, Lay vs. Dakota Hills Realty/Hageman. Motion by Larkin, second by Wittrig, to dismiss the complaint for lack of jurisdiction. Motion carried.

Complaint #2004-001, SDREC vs. Deadwood Realty/Neiderworder/Sneesby. Motion by Larkin, second by Wittrig, to move to a formal hearing. Motion carried.

Complaint #2003-034, Janssen vs. Kemink Land Co./Kemink & Century 21 Advantage II/Tesch. Commission member Charles Larkin recused himself from the complaint. Motion by Wittrig, second by Anderson, to table the complaint and file a complaint against Janssen Realty, Larry Janssen and Wayne Goedken. Motion carried.

Joyce Levin Tidball appeared before the commission at 9:55 a.m. with a proposed plan for renewing and upgrading her license. Motion by Wittrig, second by Anderson, to authorize the executive director to work with Joyce in completing her education requirements to renew/upgrade her license. Motion carried. Joyce left the meeting at 10:10 a.m.

September minutes, page 2

Discussion was held on proposed legislation. Motion by Larkin, second by Wittrig that "provision for canceling the agreement by either party" be adopted for legislation in SDCL 36-21A-130. Motion Carried.

Motion by Anderson, second by Wittrig, to adopt proposed legislation to permit a real estate broker to appoint agents within an office to represent separate parties to a real estate transaction. Motion carried.

The executive director informed the commission that the office will be restructuring. Dee's current position is being reclassified to a Program Assistant and will have her current duties minus the financial duties. The financial duties will be handled by Norma.

Orville Davis joined the meeting at 11:25 a.m. in regards to his condo registration that was approved by the commission and the problem he is having getting the condo approved in Rapid City. Motion by Wittrig, second by Anderson, to reaffirm and uphold the decision of the executive director in approving the condo registration. Motion carried.

The next meeting of the commission will be November 24 & 25, 2003 in Pierre.



There being no further business, Wittrig moved, seconded by Larkin, to adjourn at 11:45 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on September 29, 2003.

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SOUTH DAKOTA REAL ESTATE COMMISSION

SEPTEMBER 11, 2003

RAMKOTA CONVENTION CENTER

2111 LACROSSE STREET

RAPID CITY, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 9:03 a.m. MDT in the Harney Peak Room of the Ramkota Conference Center, Rapid City South Dakota. Present for the meeting were Chairperson Jim Berven and commission members Loren Anderson, Brian Jackson, Charlie Larkin, and Judy Wittrig. Also present were legal counsel Jim Robbenolt and executive director Larry Lyngstad.

The executive director reported that the auditor position in Sioux Falls had been offered to Timothy Buseman, a recent accounting and business management graduate from the University of Sioux Falls, and that he had accepted. He will begin work on September 24.

Discussion was held on a request to waive investigation and hearing costs for Holly Koob. Following discussion, motion by Larkin, second by Jackson to deny the request. Motion carried.

A conference call was scheduled for 9:30 with attorney Tom Wilka and broker Don Dunham Jr. Due to technical difficulties, the call was delayed until 9:55. The call concluded at 10:15. Jim Berven recused himself from the call.

Motion by Wittrig, second by Larkin to enter into executive session. Motion carried.

Chairperson Berven convened the informal consultation on complaint # 2003-031 at 10:20 a.m. The complainant voiced concern about not being represented by legal counsel when one of the defendants had counsel. Discussion followed and the complainant agreed to proceed. The consultation concluded at 11:55.

The commission recessed at 12:00 noon and reconvened at 1:25 p.m..

Motion by Jackson, second by Anderson to come out of executive session at 1:25 p.m.

Motion by Wittrig, second by Larkin to proceed to a formal complaint and hearing against Wayne Hageman, and to subpoena Bruce Currington and Dorothy Patton. The complaint against Faith Wendt was dismissed. Motion carried.

Motion by Larkin, second by Jackson, to offer a Stipulation and Assurance of Voluntary Compliance to Don Dunham Jr. concerning the allegations against him, and that he reimburse costs to the commission in the amount of \$2512.25. Motion carried.

There being no further business, motion by Wittrig, second by Jackson to adjourn at 2:25 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on September 11, 2003.

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SOUTH DAKOTA REAL ESTATE COMMISSION

AUGUST 18, 19 & 20, 2003

PUBLIC SAFETY BUILDING

118 WEST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:30 p.m. on August 18, 2003 in the Conference Room of the Public Safety Building, Pierre, South Dakota. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling. Commission member Judy Wittrig was not present for the meeting.

Motion by Anderson, second by Jackson, to approve the minutes of the June 30 & July 1, 2003 meeting. Motion carried.

Motion by Larkin, second by Anderson, to enter into executive session at 1:25 p.m. Motion carried.

Motion by Anderson, second by Jackson, to come out of executive session at 1:30 p.m. Motion carried.

Motion by Anderson, second by Jackson, to approve the Fiscal 2003 year end financial report subject to audit. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law & Proposed Decision on Dale Chell and Beverly Young. Motion by Larkin, second by Jackson, to modify the proposed decision of Hearing Officer Julie Johnson to stay the 6 months suspension of Beverly Young, that she pay a fine of \$1,000, that she complete 12 hours of continuing education in agency law, license law and contracts and that she have no other violations for one year. Dale Chell pay a fine of \$1,000, that he complete 12 hours of education in agency law, license law and contracts and that he have no other violations for one year. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law & Proposed Decision on Holly Koob and Jay Hoover. Motion by Jackson, second by Larkin, to adopt the proposed decision of Hearing Officer Julie Johnson that Holly Koob and Jay Hoover each pay a fine of \$250 and that Holly Koob complete 12 hours of education in agency law, license law and contracts. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law & Proposed Decision on John & Kathy Sundby. Motion by Jackson, second by Larkin, to modify the proposed decision of Hearing Officer Julie Johnson to stay the 6 months suspension of John and Kathy Sundby and adopt the decision to each pay a fine of \$2,500 and complete 12 hours of education in agency law, license law and contracts. Motion carried.

Motion by Larkin, second by Jackson, to enter into executive session at 3:10 p.m. Motion carried.

Motion by Larkin, second by Anderson, to come out of executive session at 3:15 p.m. Motion carried.

Motion by Larkin, second by Jackson, to dismiss complaint #2003-032, Guthrie/Barnes vs. Central Hills Real Estate/Benning/Brickey. Motion carried.

Motion by Anderson, second by Jackson, to enter into executive session at 3:20 p.m. Motion carried.

Motion by Jackson, second by Larkin, to come out of executive session at 3:40 p.m. Motion carried.

Complaint #2003-031, McKinnie vs. Dakota Hills Realty/Hageman & Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Wendt. Motion by Anderson, second by Jackson, to hold an informal consultation. Motion carried.

Vice Chairman Loren Anderson convened the hearing at 3:45 p.m. on a motion for continuance in the complaint SDREC vs. Donald Dunham, Jr. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling. Tim Wilka, attorney for Donald Dunham, Jr. appeared telephonically. Chairman Jim Berven recused himself from the complaint. The hearing concluded at 3:50 p.m. Following discussion Larkin moved, seconded by Jackson, to approve the request for a continuance and hold an informal consultation on condition that Bonnie Mogen will appear and if she will not appear for the informal then move to a formal hearing. Motion carried.

Chairman Berven at 4:15 p.m. convened the formal hearing on the application appeal of Michael Kassis. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and Michael Kassis. Chairman Berven declared the hearing closed at 4:25 p.m.

Motion by Anderson, second by Larkin, to enter into executive session at 4:26 p.m. Motion carried.

Motion by Jackson, second by Larkin, to come out of executive session at 4:28 p.m. Motion carried.

Motion by Larkin, second by Anderson, to approve the broker associate application of Michael Kassis. Motion carried.

Motion by Anderson, second by Jackson, to enter into executive session at 4:30 p.m. to review complaints. Motion carried.

Motion by Jackson, second by Larkin, to come out of executive session at 5:15 p.m. Motion carried.

August minutes, page 3

Complaint #2003-033, Erickson vs. Action Buyers Resource/Voorhees. Motion by Larkin, second by Anderson, to dismiss the complaint. Motion carried.

Complaint #2003-037, Carter vs. Hegg, REALTORS, Inc./Schnabel. Motion by Larkin, second by Jackson, to dismiss the complaint. Motion carried.

Complaint #2003-039, SDREC vs. A & A Professional Property Management/Riss. Motion by Larkin, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance to a penalty of \$500 and 6 hours education in license law. Motion carried.

Complaint #2003-040, Thompson vs. Salem Realty, Inc./Schmit/Miiller. Motion by Jackson, second by Larkin, to dismiss the complaint. Motion carried.

Complaint #2004-001, SDREC vs. Deadwood Realty/Neiderworder/Sneesby. Motion by Larkin, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance to a penalty of \$500. Motion

carried.

Complaint #2003-038, Przymus vs. Merle Miller Real Estate and Auction Co./Miller. Motion by Larkin, second by Jackson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance to a penalty of \$250. Motion carried.

The meeting recessed at 5:25 p.m. and reconvened at 8:30 a.m. on August 19, 2003.

Discussion was held on interview procedures and questions to ask at the interviews for the position of the executive director.

Motion by Anderson, second by Jackson, to enter into executive session at 10:00 a.m. Motion carried.

The informal consultation on complaint #2003-029, Olson vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Hosek & RE/MAX of Rapid City/Howie was convened by Chairman Berven at 10:05 a.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainant Bruce Olson, respondents Kelly Howie and Duane Hosek and responsible brokers Gene Hensley and Dan McFarland. The consultation concluded at 11:00 a.m.

Motion by Larkin, second by Anderson, to come out of executive session at 11:25 a.m. Motion carried.

Motion by Jackson, second by Anderson, to dismiss the complaint with a letter of admonishment to all licensees. Motion carried.

The meeting recessed for lunch at 11:30 a.m. and reconvened at 12:45 p.m.

August minutes, page 4

Motion by Larkin, second by Anderson, to enter into executive session at 12:55 p.m. Motion carried.

The informal consultation on complaint #2003-021, Hall vs. Dakota Gold Realty/Carr was convened by Chairman Berven at 1:00 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainant Vickie Hall and respondent Ed Carr and his attorney Michelle Percy. Nicole Bowman appeared telephonically. The consultation concluded at 2:50 p.m.

The informal consultation on complaint #2003-028, Elmore vs. Century 21 New Age Real Estate Services/Stevens was convened by Chairman Berven at 3:10 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainants Marty and Rose Elmore, respondent Jim Stevens and responsible broker Darla Stevens. The consultation concluded at 3:55 p.m.

Legal counsel Jim Robbennolt informed the commission that legal counsel for Wayne Mundt would drop the appeal if the commission would agree to stay the suspension of Wayne Mundt. The commission stands on its previous decision.

Motion by Larkin, second by Anderson, to come out of executive session at 4:25 p.m. Motion carried.

Motion by Jackson, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Ed Carr that he complete 12 hours of education in agency law, license law and contracts and reimburse costs to the commission. The complaint against Nicole Bowman is dismissed. Motion carried.

Motion by Jackson, second by Larkin, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Jim Stevens that he complete 6 hours in license law, reimburse the commission for its costs, and be issued a letter of reprimand for failure to communicate. The complaint against Century 21 New Age Real Estate Services is

dismissed. Motion carried.

Motion by Jackson, second by Anderson, to amend the motions on the Findings of Fact, Conclusions of Law and Orders on Dale Chell, Beverly Young and Holly Koob to include the reimbursement of costs to the commissions. Motion carried.

Discussion was held on a letter the executive received regarding the contract language on the listing agreement form.

The meeting recessed at 4:45 p.m. and reconvened at 8:45 a.m. on August 20, 2003.

The public rules hearing was called to order by Chairman Berven at 9:05 a.m. The hearing closed at 10:30 a.m.

August minutes, page 5

Jim Robbennolt and Norma Schilling left the meeting at 10:35 a.m.

Interviews for the position of the executive director were held.

Charlie Larkin left the meeting at 12:30 p.m.

The commission recessed at 12:30 p.m. and reconvened at 1:30 p.m.

Upon completion of the interviews and following discussion of the candidates, motion by Anderson, second by Jackson that the commission offers the executive director position to Dee Jones Noordermeer, pending approval. Motion carried.

The commission authorized chairperson Berven to complete the necessary steps to complete the hiring process.

Motion by Anderson, second by Jackson, that the commission enter into a consultation agreement with Larry Lyngstad to pay certain expenses not to exceed \$1,000 for attending and presenting at the ARELLO Conference in Portland, Oregon on October 25-28, 2003. Motion carried.

The next meeting of the commission will be September 11, 2003 at the Ramkota Inn and Conference Center in Rapid City.

There being no further business, Anderson moved, seconded by Jackson, to adjourn at 4:05 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on August 18, 19 & 20, 2003.

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SOUTH DAKOTA REAL ESTATE COMMISSISON

JUNE 30 & JULY 1, 2003

COMMERCE BUILDING

118 WEST CAPITOL

## PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:00 p.m. on June 30, 2003 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairperson Judy Wittrig and commission members Loren Anderson, Jim Berven, Brian Jackson and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling.

Motion by Anderson, second by Larkin, to approve the minutes of the May 19 & 20, 2003 meeting. Motion carried.

Motion by Berven, second by Anderson, to accept the financial report for May 2003. Motion carried.

Hearing Officer Julie Johnson at 1:45 p.m. convened the formal hearing on complaint #2003-011, SDREC vs. Chell REALTORS/Chell/Young. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Carla Bachand, defendants Dale Chell and Beverly Young and witnesses Daniel Shafer, Debra Kirk and Nancy Peck. The hearing closed at 3:45 p.m.

Hearing Officer Julie Johnson at 4:00 p.m. convened the formal hearing on complaint #2003-026, SDREC vs. RE/MAX Professionals, Inc./Koob. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Carla Bachand, defendant Holly Koob and her attorney Brett Koenecke, Jay Hoover for RE/MAX Professionals, John Koob and witnesses Lauriann Martinez, Angie Rondeau, and Wilton Zoebel. The hearing closed at 6:30 p.m.

The meeting recessed at 6:35 p.m. and reconvened at 8:30 a.m. on July 1, 2003.

The commission reviewed the Findings of Fact, Conclusions of Law & proposed Order on James Edgington. Motion by Berven, second by Anderson, to adopt the proposed decision of Hearing Officer Hillary Brady to the revocation of James Edgington's license and reimbursement of expenses to the commission. Motion carried.

The commission reviewed the disciplinary action taken against James Strain in Wyoming. Motion by Larkin, second by Anderson, to have the executive director write a letter to James Strain informing him that the disciplinary action taken against his license in Wyoming will become a part of his file in South Dakota. Motion carried.

The commission reviewed the appeal decision on Wayne Mundt. The commission's decision was upheld in Circuit Court.

Hearing Officer Julie Johnson at 9:10 a.m. convened the formal hearing on complaint #2003-025, SDREC vs. Rossum & Neal REALTORS, Inc./John A. and Kathy Sundby. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Carla Bachand, defendants Bruce Curington for Rossum & Neal REALTORS, Inc., John and Kathy Sundby and their attorney Al Scovel, Sarah Huntley, Lisa Teachout, and witnesses Bryan Teachout, Nathan Huntley and Dee Jones Noordermeer. The hearing closed at 11:57 a.m.

The meeting recessed at 12:00 noon for lunch and reconvened at 1:10 p.m.

Motion by Berven, second by Anderson, to enter into executive session at 1:15 p.m. to discuss the previous hearings and review complaints. Motion carried.

Motion by Anderson, second by Larkin, to come out of executive session at 2:55 p.m. Motion carried.

Complaint #2003-028, Elmore vs. Century 21 New Age Real Estate Services/Stevens. Motion by Anderson, second by Berven, to hold an informal consultation. Motion carried.

Complaint #2003-029, Olson vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Hosek & RE/MAX of Rapid City/Howie. Motion by Berven, second by Larkin, to hold an informal consultation. Motion carried.

Complaint #2003-030, Anderson vs. The Dunham Company/Dunham/Curry. Motion by Jackson, second by Wittrig, to move to a formal hearing. Motion carried.

Complaint #2003-032, Guthrie/Barnes vs. Central Hills Real Estate/Benning/Brickey. Motion by Larkin, second by Anderson, to hold an informal consultation. Motion carried.

Discussion was held on real estate companies charging a transaction fee and cause for potential RESPA violations. Motion by Berven, second by Anderson, to have the executive director write a letter to the Black Hills Board of REALTORS regarding the transaction fee that is included in the listing agreement. Motion carried.

Discussion was held on an advertisement from Creative Safe Results.

Discussion was held on licensing exam results from January through May 2003.

This being the time and place to elect new officers for the Real Estate Commission, Chairperson Wittrig opened nominations. Larkin nominated Berven for Chairperson and Anderson for Vice-Chairperson and moved that nominations cease. Jackson seconded. Motion carried with Berven and Anderson elected.

Legal Counsel Jim Robbennolt left the meeting at 3:35 p.m.

Discussion was held on the job notification for the executive director's position. Motion by Anderson, second by Wittrig, to direct Chairperson Berven to meet with the Bureau of Personnel to expedite the process for advertising the position for a new executive director. Motion carried.

The commission met with office staff to discuss the retirement of the executive director.

Commission member Larkin left the meeting at 4:15 p.m.

The next meeting of the commission will be held August 18 & 19, 2003 in Pierre.

There being no further business, Anderson moved, seconded by Jackson, to adjourn at 4:30 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on June 30 & July 1, 2003.



MAY 19 & 20, 2003  
COMMERCE BUILDING  
118 WEST CAPITOL  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:30 p.m. on May 19, 2003 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairperson Judy Wittrig, and commission members Loren Anderson, Jim Berven and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling.

Motion by Anderson, second by Berven, to approve the minutes of the April 7 & 8, 2003 meeting. Motion carried.

The executive director informed the commission that witness Judith Lowe and defendant Jim Edgington would not be present for the formal hearing scheduled at 3:00 p.m. but would be available telephonically. Following discussion, the commission agreed to hold the hearing telephonically.

Motion by Larkin, second by Anderson, to accept the financial report for April 2003. Motion carried.

The commission reviewed the proposed budget for Fiscal Year 2004. Motion by Berven, second by Larkin, to adopt the proposed budget for Fiscal Year 2004. Motion carried.

Hearing Officer Hillary Brady at 3:00 p.m. convened the formal hearing on complaint #2003-020, SDREC vs. Leading Edge REALTORS/Edgington. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and court reporter Lynne Ormesher. Witnesses Judith Lowe, Vicki Edgington and defendant Jim Edgington appeared telephonically. The hearing concluded at 3:45 p.m.

Motion by Larkin, second by Berven, to enter into executive session at 3:50 p.m. to discuss the Findings of Fact, Conclusions of Law & Order on David Kneip. Motion carried.

Motion by Berven, second by Anderson, to come out of executive session at 4:25 p.m. Motion carried.

Motion by Anderson, second by Berven, to modify the proposed decision of Hearing Officer Julie Johnson on David Kneip and that he pay a fine of \$1500 and take 12 hours of continuing education in license law and that his license be suspended for 30 days with the suspension stayed on the condition that he have no other violations for 1 year. Motion carried.

Discussion was held on the hiring of a new executive director upon Larry Lyngstad's retirement in October 2003.

The meeting recessed at 5:00 p.m. and reconvened at 8:30 a.m. on May 20, 2003.

Motion by Anderson, second by Larkin, to enter into executive session at 8:35 a.m. to review complaints. Motion carried.

Motion by Larkin, second by Berven, to come out of executive session at 9:45 a.m. Motion carried.

Complaint #2003-019, Bintliff vs. Deadwood Realty/Sneesby & The Real Estate Center of Lead-Deadwood/Stewart. Motion by Anderson, second by Berven, to dismiss the complaint against Leo Stewart and to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Shirley Sneesby to a fine of \$100 and completion of 6 hours

of continuing education in license law and if this is not accepted the commission will move to a formal hearing. A letter of admonishment is to be sent to her broker, Garry Neiderworder. Motion carried.

Complaint #2003-021, Hall vs. Dakota Gold Realty/Carr. Motion by Berven, second by Larkin, to extend the complaint to include the rental agent and hold an informal consultation. Motion carried.

Complaint #2003-023, King vs. Prairie Winds Realty/Duling. Motion by Berven, second by Anderson, to dismiss the complaint. Motion carried.

Complaint #2003-024, Komes vs. AmeriSpec Home Inspection Services/VanLeuven. Motion by Larkin, second by Berven, to dismiss the complaint. Motion carried.

Complaint #2003-025, Teachout vs. Rossum & Neal REALTORS, Inc./John A. & Kathy Sundby. Motion by Anderson, second by Berven, to move to a formal hearing and subpoena all parties involved. Motion carried.

Complaint #2003-026, Martinez vs. McDowell-Rogers REALTORS/Koob. Motion by Berven, second by Larkin, to name RE/MAX Professionals in the complaint and move to a formal hearing and subpoena all parties involved. Motion carried.

Complaint #2003-027, Anderson vs. Haugan-Nelson Realty/Haugan/Twiss. Motion by Anderson, second by Berven, to dismiss the complaint. Motion carried.

Complaint #2003-002, SDREC vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Mark Kirkeby. Motion by Larkin, second by Anderson, to dismiss the complaint. Motion carried.

The executive director reminded the commission of the ND/SD REALTORS Convention in Rapid City September 10-12, 2003. All commission members are planning on attending.

Discussion was held on drafting additional rules for home inspectors.

The executive director handed out an advertisement that he had received. Following review, Berven moved, seconded by Larkin, to file a complaint against the licensee as the ad appears to be an inducement. Motion carried.

Gary Viken, Secretary of the Department of Revenue and Regulation, joined the commission meeting at 10:35 a.m. Mr. Viken left the meeting at 12:00 noon.

The executive director handed out a draft revision on administrative rule 20:69:04:03 for the commission's review.

The next meeting of the commission will be held June 30 & July 1, 2003 in Pierre.

There being no further business, Berven moved, seconded by Larkin, to adjourn at 12:05 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on May 19 & 20, 2003.

Larry G. Lyngstad, Executive Director

APRIL 7 & 8, 2003  
COMMERCE BUILDING  
118 WEST CAPITOL  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 8:30 a.m. on April 7, 2003 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairperson Judy Wittrig and commission members Loren Anderson, Jim Berven and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling.

Motion by Berven, second by Larkin, to approve the minutes of the February 5 & 6, 2003 meeting. Motion carried.

Motion by Larkin, second by Anderson, to accept the financial reports for January, February and March 2003. Motion carried.

The commission reviewed the proposed administrative rules. Following discussion, Larkin moved, seconded by Anderson, to approve the proposed administrative rules and file with Legislative Research Council. Motion carried.

The commission reviewed the petition for an administrative rule. Following discussion, Berven moved, seconded by Larkin, to deny the request for petition for administrative rule with regards to instructors receiving continuing education credit for courses they teach. Motion carried.

The commission reviewed the petition for a declaratory ruling. Motion by Berven, second by Anderson, to adopt the petition for declaratory ruling with an amendment to change "monetary" consideration to "valuable" consideration. Motion carried.

Discussion was held on the reprint of the license law book. Motion by Larkin, second by Anderson, to have the executive director send out a survey to the licensees to see if they would like to receive the law book on CD, on-line or in book form. Motion carried.

The executive director requested that the commission give an interpretation to SDCL 36-21A-61 in regard to requalifying for licensure. The commission's interpretation would be that the individual would need to start from the beginning by obtaining the required education and testing before applying for a license.

The executive director informed the commission that the licensing exam contract with AMP expires at the end of June 2003 and that AMP offered to extend the contract for three years at a cost of \$130 per exam. Following discussion, Berven moved, seconded by Anderson, to extend the contract for three years with AMP at a cost of \$130 per exam. Motion carried.

The executive director informed the commission that AMP also administers the home inspector exam in other states and suggested that the commission consider this option in the future.

Motion by Larkin, second by Berven, to enter into executive session at 11:52 a.m. to review complaints. Motion carried.

Motion by Berven, second by Larkin, to come out of executive session at 12: 15 p.m. Motion carried.

Complaint #2003-015, Alden vs. Sperling Realty/Sperling/Anderson. Motion by Anderson, second by Berven, to dismiss the complaint. Motion carried.

Complaint #2003-020, Lowe vs. Leading Edge REALTORS/Edgington. Motion by Larkin, second by Anderson, to move to a formal hearing. Motion carried.

Complaint #2003-022, Annis vs Lundquist, Wood & Bradeen Real Estate/Bradeen/Wood/Lundquist. Motion by Larkin, second by Anderson, to dismiss the complaint. Motion carried.

The commission recessed for lunch at 12:17 p.m. and reconvened at 1:20 p.m.

Motion by Anderson, second by Berven, to enter into executive session at 1:25 p.m. Motion carried.

The informal consultation on complaint #2003-010, Ruiz vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Stoick was convened by Chairperson Wittrig at 1:30 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainant Laura Ruiz, respondent Barb Stoick, Lonnie Braun, attorney for the defendant, Dan McFarland and Tod Christensen. Commission member Charles Larkin recused himself from participation. The consultation concluded at 3:05 p.m.

The informal consultation on complaint #2003-012, Howard vs. Black Hills Land Co./Krantz was convened by Chairperson Wittrig at 3:15 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainants Terry and Francey Howard and respondent Patrick Krantz. The consultation concluded at 4:30 p.m.

Motion by Berven, second by Larkin, to come out of executive session at 5:05 p.m. Motion carried.

Motion by Anderson, second by Larkin, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Patrick Krantz to a monetary penalty of \$500, payment to be made within 30 days and 12 hours of continuing education with 6 hours in license law and 6 hours in agency, to be completed within one year. Motion carried.

Commission member Larkin left the meeting at 5:10 p.m.

Motion by Berven, second by Anderson, to enter into executive session at 5:10 p.m. Motion carried.

Motion by Anderson, second by Berven, to come out of executive session at 5:20 p.m. Motion carried.

Motion by Anderson, second by Berven, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Barb Stoick to a monetary penalty of \$500, payment to be made within 30 days and 12 hours of continuing education with 6 hours in license law and 6 hours in agency, to be completed within one year. Motion carried.

The meeting recessed at 5:30 p.m. and reconvened at 8:30 a.m. on April 8, 2003.

The formal hearing on complaint #2003-013, SDREC vs. Jeffrey Daschel was convened at 9:15 a.m. Present for the hearing in addition to the members of the commission were Hearing Officer Julie Johnson, court reporter Carla Bachand, legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling. Defendant Jeffrey Daschel failed to appear for the hearing. The hearing concluded at 9:30 a.m.

Motion by Berven, second by Anderson, to revoke the license of Jeffrey Daschel with a fine of \$2,000. Motion carried.

Hearing Officer Julie Johnson at 10:00 a.m. convened the formal hearing on complaint #2003-016, SDREC vs. Best Choice Real Estate/Kneip. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Carla Bachand, defendant David Kneip, Eric Rasmussen, attorney for the defendant and witnesses Kevin Ishol and Greg Kneip. The hearing closed at 12:25 p.m.

The formal hearing on complaint #2003-017, SDREC vs. Deborah Butler was convened at 12:30 p.m. Present for the

hearing in addition to the members of the commission were Hearing Officer Julie Johnson, court reporter Carla Bachand, legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling. Defendant Deborah Butler failed to appear for the hearing. The hearing concluded at 12:45 p.m.

Motion by Berven, second by Wittrig, to find the defendant Deborah Butler guilty of unprofessional conduct for insufficient funds check and fine the defendant \$500 and suspend her license for 30 days with the suspension stayed on the condition that she complete 12 hours of education in a field approved by the executive director. The fine to be paid within 30 days and the education completed within one year. Motion carried.

The commission reviewed the E & O complaint on Eddie Powers. Motion by Larkin, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Eddie Powers to a penalty of \$100. Motion carried.

The commission reviewed the E & O complaint on Ann Salzer. Motion by Larkin, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Ann Salzer to a penalty of \$100. Motion carried.

Discussion was held on the Southern/Central ARELLO meeting in Little Rock, AR June 5-8, 2003. Motion by Anderson, second by Larkin, to approve commission member Jim Berven and the executive director to attend the ARELLO meeting in Little Rock, AR June 5-8, 2003. Motion carried.

Discussion was held on an out of state licensee having their license displayed with a South Dakota broker licensed in that state by reciprocity. The executive director suggested that legislation be drafted to revise statutes regarding advertising to give the commission rule making authority to amend rules as necessary.

The next meeting of the commission will be May 19 & 20, 2003 in Pierre.

There being no further business, Berven moved, seconded by Larkin, to adjourn at 1:45 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on April 7 & 8, 2003.

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SOUTH DAKOTA REAL ESTATE COMMISSION

FEBRUARY 5 & 6, 2003

COMMERCE BUILDING

118 WEST CAPITOL

PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:30 p.m. on February 5, 2003 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Vice Chairman Jim Berven and commission member Loren Anderson. Commission members Judy Wittrig and Charles Larkin were not present for the meeting. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling.

Discussion was held on the minutes of the December 5 & 6, 2003 meeting.

Charles Haan appeared before the commission for the purpose of asking the commission to reinstate his real estate broker's license and to rescind their decision from the formal hearing of April 25, 1995. Mr. Haan left the meeting at 3:10 p.m.

Discussion was held on the Findings of Fact, Conclusions of Law and proposed decision of David Donahoe and Molly Slaughter.

Discussion was held on firm ownership.

Discussion was held on the ARELLO Board of Directors meeting in Lake Tahoe, NV April 10-12, 2003 and the Central/Southern District meeting in Little Rock, AR June 5-8, 2003.

The meeting recessed at 4:30 p.m. and reconvened at 8:30 a.m. on February 6, 2003.

Discussion was held on House Bill No. 1276 which would transfer the regulation of real estate appraisers from the Department of Commerce and Regulation to the Real Estate Commission.

Commission members Judy Wittrig and Charles Larkin joined the meeting by telephone conference at 9:00 a.m.

Vice Chairman Berven briefed commission member Larkin and Wittrig on the meeting with Charles Haan on February 5, 2003. Following discussion, Wittrig moved, seconded by Anderson, to have the executive director write a letter to Charles Haan to thank him for appearing and to inform him that the commission stands with the decision made following the formal hearing of April 25, 1995. Motion carried.

Discussion was held on the Findings of Fact, Conclusions of Law and Proposed Order of Molly Slaughter. Motion By Wittrig, second by Anderson, to adopt the proposed order of Hearing Office Hillary Brady to include a fine of \$1,000 plus costs of the hearing and if this is not paid within 30 days her license will automatically be revoked. Motion carried.

Discussion was held on the Findings of Fact, Conclusions of Law and Proposed Order of David Donahoe. Motion by Anderson, second by Wittrig, to adopt the proposed order of Hearing Officer Hillary Brady to include a fine of \$300 and a license suspension of 90 days with the suspension stayed under the condition that he has no violations prior to June 26, 2005. Motion carried.

Commission member Wittrig left the meeting at 9:35 a.m.

Discussion was held on the minutes of the December 5 & 6, 2002 meeting. Motion by Larkin, second by Anderson, to approve the minutes of the December 5 & 6, 2002 meeting. Motion carried.

Discussion was held on the financial reports for November & December 2002. Motion by Anderson, second by Larkin, to accept the financial reports for November & December 2002. Motion carried.

Discussion was held on firm ownership. Motion by Anderson, second by Larkin, that the SD Code is very clear that if a corporation is set up for both insurance and real estate all the owners must have a real estate license or a separate corporation must be formed for the insurance business. Motion carried.

Motion by Anderson, second by Larkin, to enter into executive session at 9:50 a.m. to review complaints. Motion carried.

Motion by Larkin, second by Anderson, to come out of executive session at 11:00 a.m. Motion carried.

Complaint #2003-008, W. M. Richardson vs. Davis Martin. Motion by Anderson, second by Larkin, to dismiss the complaint and have the executive director include in his letter that it is the commission's policy not to get involved with disputes regarding commissions. Motion carried.

Complaint #2003-009, Lynch vs. Ace Realty and Auction, Inc./Sprecher/Wullweber. Motion by Anderson, second by Larkin, to dismiss the complaint. Motion carried.

Complaint #2003-010, Ruiz vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Stoick. Commission member Charles Larkin recused himself from the complaint. Motion by Anderson, second by Berven, to hold an informal consultation. Motion carried.

Complaint #2003-011, Shafer vs. Chell REALTORS/Chell/Young. Motion by Anderson, second by Larkin, to move to a formal hearing and to subpoena the seller and all licensees involved. Motion carried.

Complaint #2003-012, Howard vs. Black Hills Land Co./Krantz. Motion by Larkin, second by Anderson, to hold an informal consultation. Motion carried.

Complaint #2003-013, SDREC vs. Jeffrey Daschel. Motion by Anderson, second by Larkin, to move to a formal hearing. Motion carried.

Complaint #2003-014, Georgeson vs. Merkwon Realty/Woods/Breck. Commission member Loren Anderson recused himself from the complaint. Motion by Berven, second by Larkin, to dismiss the complaint upon recommendation of legal counsel. Motion carried.

Complaint #2003-016, Ishol vs. Best Choice Real Estate/Kneip. Motion by Anderson, second by Larkin, to move to a formal hearing. Motion carried.

Complaint #2003-017, SDREC vs. Deborah Butler. Motion By Anderson, second by Larkin, to move to a formal hearing. Motion carried.

Discussion was held on the ARELLO Board of Directors meeting & the Central/Southern District meeting. Motion by Anderson, second by Larkin, to submit a request for two commission members to attend both the ARELLO Board of Directors meeting in Lake Tahoe, NV and the Central/Southern meeting in Little Rock, AR. Motion carried.

The commission deferred any action on the declaratory ruling until the April meeting.

The executive director informed the commission that he would like to appoint a study group to look at appointed agency in South Dakota and also the property condition disclosure statement. Motion by Larkin, second by Anderson, to have the executive director appoint a study group and to pay their expenses. Motion carried.

The next meeting of the commission will be April 7 & 8, 2003 in Pierre.

There being no further business, Larkin moved, seconded by Anderson, to adjourn at 11:25 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on February 5 & 6, 2003.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**DECEMBER 5 & 6, 2002**

**COMMERCE BUILDING**

**118 WEST CAPITOL**

## PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 1:00 p.m. on December 5, 2002 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairperson Judy Wittrig and commission members Loren Anderson, Jim Berven and Charles Larkin. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling.

Motion by Berven, second by Anderson, to approve the minutes of the November 15, 2002 meeting. Motion carried.

Motion by Berven, second by Anderson, to accept the financial report for October 2002. Motion carried.

Discussion was held on budget and E & O insurance.

Hearing Officer Hillary Brady at 1:30 p.m. convened the formal hearing on complaint #2003-006, SDREC vs. David Donahoe. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Cheri Whittler, defendant David Donahoe and his attorney Dick Travis. Hearing Officer Brady declared the hearing closed at 2:15 p.m.

Motion by Berven, second by Larkin, to enter into executive session at 2:25 p.m. Motion carried.

Motion by Berven, second by Larkin, to come out of executive session at 2:50 p.m. Motion carried.

Hearing Officer Hillary Brady at 3:00 p.m. convened the formal hearing on complaint #2002-012, ADREC vs. Advantage Appraisals/Slaughter. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Cheri Whittler and defendant Molly Slaughter. Sherry Bren with Appraiser Certification appeared as an observer. Hearing Officer Brady declared the hearing closed at 3:28 p.m.

Motion by Larkin, second by Berven, to enter into executive session at 3:30 p.m. Motion carried.

The informal consultation on complaint #2003-003, Mancini vs. Burke & Associates Real Estate/Holden/Levin was convened by Chairperson Wittrig at 4:00 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim

Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, respondents Joyce Levin and Doris Holden, and Craig Smith, attorney for the complainant. Complainant William Mancini appeared telephonically. The consultation concluded at 5:48 p.m.

Motion by Anderson, second by Berven, to come out of executive session at 5:50 p.m.

The meeting recessed at 5:50 p.m. and reconvened at 8:30 a.m. on December 6, 2002.

Jeff Dougan appeared before the commission with a request for approval of an application for a sales license upon passing the exam. Following discussion, Larkin moved, seconded by Berven, to approve his application for a sales license upon passing the exam on condition that he submit quarterly reports of his real estate activities for 2 years and that his broker contact the executive director prior to requesting his license. Motion carried.

Motion by Berven, second by Larkin, to enter into executive session at 9:40 a.m. Motion carried.

The informal consultation on complaint #2003-007, Heathershaw vs. RE/MAX In The Hills/McDowall was convened by Chairperson Wittrig at 10:25 a.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, respondent Marysia McDowall and Gigi Gallagher. Complainant Gwendolyn (Doe) Heathershaw and witnesses Jodie Henry and Wayne Mundt appeared telephonically. The consultation concluded at 11:20 a.m.

Motion by Berven, second by Anderson, to come out of executive session at 12:15 p.m. Motion carried.

Complaint #2003-007, Heathershaw vs. RE/MAX In The Hills/McDowall. Motion by Larkin, second by Anderson, to dismiss the complaint with a letter of admonishment to Marysia McDowall, Jodie Henry and Wayne Mundt to open the doors to communication. Motion carried.



Complaint #2003-003, Mancini vs. Burke & Associates Real Estate/Holden/Levin. Motion by Berven, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Joyce Levin and Doris Holden on condition that Joyce complete an additional 24 hours of continuing education, including 12 hours in agency and 12 hours in contracts, pay a penalty of \$500 and reimburse costs, payment to be made within 30 days; and to propose to Doris Holden that she complete the 15 hour responsible broker course. All course work to be completed within one year. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law and Order on Wayne Mundt. Motion by Anderson, second by Berven, to modify the Findings of Fact, Conclusions of Law and Order of Hearing Officer Leo Disburg for misrepresentation of ownership of the property. Ordered that Wayne Mundt take an additional 24 hours of continuing education including 12 hours in agency and 12 hours in contracts, to be completed within one year; that he pays a fine of \$1,500; that he pay reimbursement of costs and that his license be suspended for 6 months. Motion carried.

Discussion was held on purchasing a domain name using "Realty" in the name. Motion by Anderson, second by Berven, to treat this the same as advertising. Motion carried.

Discussion was held on purchasing someone else's name on the internet. Motion by Berven, second by Anderson, that purchasing someone else's name on the internet would be unprofessional conduct. Motion carried.

Discussion was held on the proposed declaratory ruling. The commission deferred any action until the next meeting.

Discussion was held on electronic storage of records. The commission agreed that it would be okay to store records electronically but that original documents must be kept for the required 4 years.

The executive director informed the commission that the Division of Insurance has asked the commission to send a survey to the licensees regarding homeowner's insurance for first time homebuyers.

The executive director informed the commission that staff is negotiating with Debbie Long for the Spring caravan.

The next meeting of the commission will be February 5 & 6, 2002 in Pierre.

There being no further business, Berven moved, seconded by Anderson, to adjourn at 1:45 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on December 5 & 6, 2002.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**OCTOBER 15 & 16, 2002**

**RAMKOTA HOTEL**

**2400 N LOUISE AVE**

**SIOUX FALLS, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on October 15, 2002 in Conference Room No. 1 of the Ramkota Hotel, Sioux Falls, South Dakota. Present for the meeting were Chairperson Judy Wittrig and commission members Loren Anderson, Jim Berven and Charles Larkin. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Berven, second by Larkin, to approve the minutes of the August 12 & 13, 2002 meeting with the correction that when a property transfer is recorded, the register of deed's office notify the treasurer's office within 30 days of the property transfer. Motion carried.

Motion by Larkin, second by Berven, to accept the financial reports for July, August and September 2002. Motion carried.

Motion by Berven, second by Larkin, to enter into executive session at 1:25 p.m. Motion carried.

The informal consultation on the complaint #2002-023, Youngberg/Century 21 Professional Real Estate vs. Merkwan Realty/Breck/Woods was convened by Chairperson Wittrig at 1:30 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainant Harvey Youngberg, Bill Bobzin, Charlotte Herrlein, defendants Carol Breck and Jolene Woods and their attorney Steve Pier. Commission member Loren Anderson recused himself from the consultation. The consultation concluded at 2:30 p.m.

The informal consultation on the complaint #2002-022, Weiting vs. Coldwell Banker Roby Agency REALTORS/Drake was convened by Chairperson Wittrig at 3:04 p.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainants Maynard and Donna Weiting, defendant Sandie Drake and broker Tom Roby. Commission member Charles Larkin recused himself from the consultation. The consultation concluded at 3:50 p.m.

Motion by Wittrig, second by Anderson, to come out of executive session at 4:10 p.m.

Motion carried.

Motion by Wittrig, second by Anderson, to dismiss the complaint with an admonishment to the licensees, to have the executive director write a letter to Sandie Drake informing her that her remarks were unprofessional. Motion by Wittrig, second by Anderson, to amend the motion to include a letter to Tom Roby for his failure to properly supervise. Motion carried as amended.

Angie Rondeau joined the meeting at 4:15 p.m. and left at 4:55 p.m.

Discussion was held on various real estate issues.

Legal counsel Jim Robbennolt left the meeting at 4:35 p.m.

Discussion was held on the proposal for errors and omissions insurance for 2003. Motion by Anderson, second by Larkin, to have the executive director contact Williams Underwriting to see if they would be interested in submitting a bid for errors and omissions insurance for 2003 and if not then proceed with the proposal from Rice Insurance Services. Motion carried.

The meeting recessed at 6:00 p.m. and reconvened at 8:30 a.m. on October 16, 2002.

Discussion was held on licensees being licensed by reciprocity and how the new single licensing will affect these individuals. The executive director will draft rules for those individuals licensed by reciprocity.

Motion by Larkin, second by Anderson, to enter into executive session at 8:55 a.m. Motion carried.

The informal consultation on the complaint #2002-020, Bobic vs. Lloyd Real Estate/Lloyd/Aspaas was convened by Chairperson Wittrig at 9:00 a.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainant Nermin Bobic and his attorney Steve Haugaard and defendants Dawn Aspaas and Craig Lloyd. Commission member Jim Berven recused himself from the complaint. The consultation concluded at 11:10 a.m.

Motion by Anderson, second by Larkin, to come out of executive session at 11:30 a.m. Motion carried.

The continuation of the public rules hearing was convened at 11:35 a.m. The rules hearing closed at 11:40 a.m.

Motion by Berven, second by Larkin, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Carol Breck to a penalty of \$200 for altering documents and lack of record keeping and have the executive director write a letter to Harvey Youngberg and Bill Bobzin for lack of record keeping. Motion carried. Commission member Anderson recused himself from the decision. The complaint against Jolene Woods was dismissed.

Motion by Larkin, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Dawn Aspaas to a penalty of \$100 for failure to have papers properly signed as required and to have the executive director write a letter to her commending her for the job she did in handling her client. Motion carried.

Discussion was held on the fact that Molly Slaughter did not accept notice and appear for an informal consultation. Motion by Berven, second by Anderson, to move to a formal hearing. Motion carried.

Chairperson Wittrig left the meeting at 11:50 a.m.

Linda Dunham and Jim Costello joined the meeting at 11:50 a.m. and left at 1:10 p.m.

Linda Dunham explained IDX sites, Virtual Office Websites and Bricks and mortar brokerage. The Sioux Falls Board has a concern as to whether rules need to be drafted to govern these sites. Linda will submit a proposal as to what they would like to see for governing these sites.

Complaint #2003-001, Van Gelder vs. Richard W. Stene Real Estate/Stene. Motion by Anderson, second by Larkin, to dismiss the complaint. Motion carried.

Complaint #2003-002, Hutmacher vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Kirkeby. Motion by Anderson, second by Larkin, to move to a formal hearing and to subpoena the home inspector, and the complainant's mother and sister who occupy the property. Motion carried.

Complaint #2003-003, Mancini vs. Burke & Associates Real Estate/Holden/Levin. Motion by Larkin, second by Anderson, to hold an informal consultation. Motion carried.

Complaint #2003-004, Howard vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Hooper. Motion by Larkin, second by Anderson, to dismiss the complaint. Motion carried.

Complaint #2003-006, SDREC vs. David Donahoe. Motion by Anderson, second by Larkin for discussion purposes, to file a formal complaint. Motion carried with Larkin voting Nay.

Complaint #2003-007, Heathershaw vs. RE/MAX In The Hills/McDowall. Motion by Anderson, second by Larkin for discussion purposes, to hold an informal consultation, and ask all licensees involved with the transaction and the brokers to appear. Motion carried with Larkin voting Nay.

Discussion was held on a proposed declaratory ruling. The commission deferred any action until the next meeting.

The executive director informed the commission that he had received a call from Williams Underwriting and they indicated they would like to submit a proposal for errors and omissions insurance. The executive director will send a request for proposal to Williams Underwriting and Rice Insurance Services.

The next meeting of the commission will be held December 5 & 6, 2002 in Pierre.

There being no further business, Larkin moved, seconded by Anderson, to adjourn at 2:10 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on October 15 & 16, 2002.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**AUGUST 12 & 13, 2002**

**COMMERCE BUILDING**

**118 WEST CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on August 12, 2002 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairperson Judy Wittrig and commission members Loren Anderson, Jim Berven and Charles Larkin. Also present were executive director Larry Lyngstad, legal counsel Jim Robbenolt and secretary Norma Schilling.

Motion by Berven, second by Anderson, to approve the minutes of the June 17, 18 & 19, 2002 meeting. Motion carried.

Motion by Anderson, second by Larkin, to approve the minutes of the June 27, 2002 conference call meeting. Motion carried.

Motion by Berven, second by Anderson, to accept the financial report for June 2002. Motion carried.

Motion by Larkin, second by Anderson, to postpone the informal consultation on the complaint #2002-020, Bobic vs. Lloyd Real Estate/Lloyd/Aspaas until the October 2002 meeting. Motion carried.

Motion by Berven, second by Larkin, to enter into executive session at 1:45 p.m. Motion carried.

Motion by Larkin, second by Berven, to come out of executive session at 1:55 p.m. Motion carried.

The commission reviewed the Findings of Fact, Conclusion of Law and Proposed Order on Harvey Youngberg. Commission member Anderson recused himself from any participation. Motion by Berven, second by Larkin, to adopt the proposed decision of Hearing Officer Hillary Brady and include that the licensee, Harvey Youngberg, complete 40 hours of broker courses and pass course exam within one year of date of service of order. Motion carried.

Discussion was held on conducting an instructor development workshop/course development workshop. The executive director will do some further checking to see if the commission has rule making authority to require instructors to complete a workshop.

Discussion was held on virtual office websites and information data exchange.

The commission reviewed and signed a letter drafted by the executive director to the Governor regarding the vacancy on the commission.

The executive director informed the commission that he was going to be scheduling forums with home inspectors to be held throughout the state.

The commission reviewed a letter and a petition for declaratory ruling received from Chad Hansen. Motion by Anderson, second by Berven, that SDCL 36-21A-54 is clear and that a declaratory ruling is made when a law is unclear. Motion carried.

The commission reviewed a letter received from Bruce Anderson regarding the filing fee on Warranty Deeds. The commission recommended that legislation be drafted to require the treasurer's office within thirty days of transfer of property notify the register of deed's office of the property transfer.

Discussion was held on fees for the Fall caravan since the caravan will consist of two three hour courses.

The executive director informed the commission that he was still waiting for quotes from Medmarc on E & O insurance. A conference call meeting may need to be held when the executive director receives the quotes.

The meeting recessed at 5:15 p.m. and reconvened at 8:30 a.m. on August 13, 2002.

Discussion was held on the Position Description Questionnaire prepared by commission member Jim Berven for the executive director's position. Motion by Anderson, second by Larkin, to approve the PDQ prepared by commission member Berven. Motion by Larkin, second by Berven, to amend motion to include in the question regarding education and experience, a minimum of a bachelors degree or an equivalent thereof. Motion carried as amended.

Legal counsel informed the commission that Jill Schaffer has not followed through with the commission's request to pay costs of \$250. Motion by Larkin, second by Berven, to move to a formal hearing. Motion carried.

Discussion was held on the Annual ARELLO Conference to be held October 3-6, 2002 in Kansas City. Motion by Berven, second by Anderson, to have the executive director submit a request of the attendance of three commission members at the conference. Motion carried.

Motion by Berven, second by Larkin, to enter into executive session at 10:50 a.m. to review complaints. Motion carried.

Chairman Wittrig turned gavel over to Vice-Chairman Berven.

Motion by Wittrig, second by Anderson, to come out of executive session at 11:40 a.m. Motion carried.

Complaint #2002-022, Wieting vs. Coldwell Banker Roby Agency, REALTORS/Drake. Motion by Anderson, second by Wittrig, to hold an informal consultation. Motion carried. Commission member Larkin recused himself from participation.

Vice-Chairman Berven turned the gavel back to Chairman Wittrig.

Complaint #2002-023, Youngberg/Century 21 Professional Real Estate vs. Merkwon Realty/Breck. Motion by Berven, second by Larkin, to hold an informal consultation and ask Harvey Youngberg, Bill Bobzin, Charlotte Herrlein, Carol Breck and Joleen Woods to attend. Motion carried. Commission member Anderson abstained from voting.

Complaint #2002-024, Durham vs. RE/MAX of Rapid City/Wright. Motion by Anderson, second by Larkin, to dismiss. Motion carried.

Discussion was held on what constitutes an inducement or a rebate and what are legal and illegal inducements. After reviewing Declaratory Ruling 93-1, Berven moved, seconded by Anderson, to reaffirm the declaratory ruling regarding inducements. Motion carried.

The next meeting of the commission will be held October 15 & 16, 2002.

There being no further business, Berven moved, seconded by Anderson, to adjourn at 12:55 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on August 12 & 13, 2002.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**JUNE 17, 18 & 19, 2002**

**COMMERCE BUILDING**

**118 WEST CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on June 17, 2002 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting Chairman Charles Larkin and commission members Loren Anderson, Jim Berven and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Berven, second by Anderson, to approve the minutes of the April 1 & 2, 2002 meeting. Motion carried.

Motion by Berven, second by Anderson, to accept the financial reports for March, April & May 2002. Motion carried.

Chairman Larkin joined the meeting at 1:30 p.m.

The commission reviewed the proposed budget for Fiscal Year 2003. Motion by Berven, second by Anderson, to adopt the proposed budget for Fiscal Year 2003 with the \$25 increase in license fees. Motion carried.

The executive director informed the commission that due to medical reasons Molly Slaughter was unable to be here for the informal consultation involving the complaint that had been filed against her. Motion by Berven, second by Wittrig, to defer any action until such time as the executive director can arrange a date for the informal consultation. Motion carried.

Discussion was held on the proposed rules. The executive director informed the commission that he had received some concerns regarding the wording of ARSD 20:69:04:03 and its intent. Following discussion the commission agreed to leave the wording and intent as is.

Hearing Officer Leo Disburg at 2:15 p.m. convened the formal hearing on complaint #2002-015, SDREC vs. Johnson Joy Real Estate/Mundt. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher, defendant Wayne Mundt, Tom Brady (attorney for the defendant) and witnesses Regina Damberger and Nancy Peck. Glenn Stewart appeared telephonically. Legal counsel for the commission presented a Stipulation for Dismissal for Johnson Joy Real Estate. Motion by Wittrig, second by Anderson, to dismiss Johnson Joy Real Estate from the complaint. Motion carried. Hearing officer Disburg declared the hearing closed at 5:43 p.m.

Chairman Larkin at 5:52 p.m. convened the formal hearing on the application appeal of Timothy McMahon. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher and Timothy McMahon. Chairman Larkin declared the hearing closed at 6:04 p.m.

Motion by Berven, second by Anderson, to enter into executive session at 6:05 p.m. Motion carried.

Motion by Wittrig, second by Berven, to come out of executive session at 6:10 p.m. Motion carried.

Motion by Berven, second by Wittrig, to authorize the approval of the home inspection application of Timothy McMahon provided he submit to the commission quarterly reports for the next two years of the number of home inspections he has completed with the names and addresses of the inspections. Motion carried.

The meeting recessed at 6:15 p.m. and reconvened at 8:30 a.m. on June 18, 2002.

Motion by Berven, second by Wittrig, to enter into executive session at 8:45 a.m. Motion carried.

The informal consultation on the complaint #2002-013, SDREC vs. Coldwell Banker GKR & Associates/Tim Johnson/Garry was convened by Chairman Larkin at 9:30 a.m. Present for the consultation in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, and defendants Tim Johnson and Tom Garry. Motion by Berven, second by Anderson, to conclude the consultation at 10:55 a.m.

Motion by Berven, second by Anderson, to come out of executive session at 11:00 a.m. Motion carried.

Hearing Officer Hillary Brady at 11:15 a.m. convened the formal hearing on complaint #2002-006, SDREC vs. Century 21 Professional Real Estate/Youngberg. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, secretary Norma Schilling, court reporter Lynne Ormesher, defendant Harvey Youngberg, Scott Swier (attorney for the defendant) and witness Nancy Peck. Commission member Loren Anderson recused himself from the complaint. Hearing Officer Brady declared the hearing closed at 11:40 a.m.

Motion by Wittrig, second by Anderson, to enter into executive session at 11:50 a.m. Motion carried.

Motion by Berven, second by Anderson, to come out of executive session at 11:55 a.m. Motion carried.

Motion by Berven, second by Anderson, to dismiss complaint #2002-013, SDREC vs. Coldwell Banker GKR and Associates/Tim Johnson/Garry. Motion carried.

The meeting recessed for lunch at 12:00 noon and reconvened at 1:20 p.m.

Michael Reynolds, attorney for defendant Yvonne Corey, met with executive director Larry Lyngstad and legal counsel Jim Robbennolt to discuss a proposed stipulation. Hearing Officer Hillary Brady convened the formal hearing on complaint #2002-008, SDREC vs. Prudential Kahler REALTORS/Corey at 2:15 p.m. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, defendant Yvonne Corey, Michael Reynolds (attorney for the defendant), Rick Kahler, Sandra Runde and Josh Hendrickson. Motion by Berven, second by Anderson, to propose to enter into a Stipulation and Assurance of Voluntary Compliance with Yvonne Corey, with Corey to pay a fine of \$300, costs of \$400 and reimburse the Brightmans \$100 for a rug, all to be paid within 30 days. Corey will also complete 15 hours of continuing education in agency, contracts and license law within one year. Motion carried.

The commission reviewed the Findings of Fact, Conclusion of Law and Order on Kenneth Bracht. Motion by Anderson, second by Wittrig, to adopt the proposed decision of Hearing Officer Hillary Brady to the denial of the application of Kenneth Bracht.

Motion carried.

Motion by Wittrig, second by Anderson, to enter into executive session at 2:35 p.m. Motion carried. Commission member Jim Berven recused himself from executive session.

Motion by Anderson, second by Wittrig, to come out of executive session at 3:00 p.m. Motion carried.

Discussion was held on activities of a personal assistant. The commission reviewed the policy Nebraska has for unlicensed assistants.

Mike Rounds, Republican candidate for Governor, joined the meeting at 3:20 p.m. to meet the commission and answer questions. Mike left at 4:10 p.m.

This being the time and place to elect new officers for the Real Estate Commission, Chairman Larkin opened nominations. Anderson nominated Wittrig for Chairman and Berven for Vice-Chairman and moved that nominations cease. Berven seconded. Motion carried with Wittrig and Berven elected.

Chairman Larkin at 4:25 p.m. convened the formal hearing on the application appeal of Cedrick Donaway. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher and Cedrick Donaway. Chairman Larkin declared the hearing closed at 4:40 p.m.

Motion by Berven, second by Wittrig, to enter into executive session at 4:41 p.m. Motion carried.

Motion by Berven, second by Wittrig, to come out of executive session at 4:43 p.m. Motion carried.

Motion by Anderson, second by Wittrig, to approve the salesperson's application of Cedrick Donaway. Motion carried.

Chairman Larkin at 4:45 p.m. convened the formal hearing on the application appeal of Blake White. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher and Blake White. Chairman Larkin declared the hearing closed at 4:54 p.m.

Motion by Wittrig, second by Anderson, to enter into executive session at 4:55 p.m. Motion carried.

Motion by Berven, second by Wittrig, to come out of executive session at 4:57 p.m. Motion carried.

Motion by Wittrig, second by Berven, to approve the home inspector application of Blake White. Motion carried.

Discussion was held on information received on a promotion of Upromise, Inc. and Century 21. The promotion was on "A Way to Save For College". The opinion of the commission is that this amounts to a rebate or kickback.

The meeting recessed at 5:35 p.m. and reconvened at 8:30 a.m. on June 19, 2002.

Commission member Anderson was not present for the meeting on June 19, 2002.

Discussion was held on a request from Jill Schaffer to reverse the decision of the commission to pay costs of \$250. Motion by Berven, second by Wittrig, that Jill Schaffer pay the \$250 costs within 20 days or move to a formal hearing. Motion carried.

Motion by Berven, second by Wittrig, to enter into executive session at 9:00 a.m. to review complaints. Motion carried.

Motion by Berven, second by Wittrig, to come out of executive session at 9:25 a.m. Motion carried.

Complaint #2002-014, SDREC vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate, Inc./Dreyer. Motion by Berven, second by Wittrig, to dismiss the complaint. Motion carried.

Complaint #2002-016, Westra vs. Coldwell Banker GKR & Associates/Swanson. Motion by Wittrig, second by Berven, to dismiss the complaint. Motion carried.

Complaint #2002-019, Olson vs. Hall and Hall Partners, LLP/Metzger. Motion by Berven, second by Wittrig, to dismiss the complaint. Motion carried.

Complaint #2002-020, Bobic vs. Lloyd Real Estate/Lloyd/Aspaas. Motion by Wittrig, second by Berven, to hold an informal consultation. Motion carried.

Complaint #2002-021, Buxcel/Daft vs. Leading Edge REALTORS/Hix. Motion by Berven, second by Wittrig, to dismiss the complaint. Motion carried.

Motion by Berven, second by Wittrig, to enter into executive session at 9:30 a.m. Motion carried.

Motion by Wittrig, second by Berven, to come out of executive session at 10:35 a.m. Motion carried.

Discussion was held on contingencies on contracts.

Discussion was held on commission splits.

Commission Member Jim Berven left the meeting at 11:15 a.m.

Paul Anderson joined the meeting at 11:30 a.m. Present were Chairman Larkin, Judy Wittrig, legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling. Commission Member Loren Anderson was not present. Discussion was recorded. Paul Anderson left the meeting at 11:50 a.m.

The next meeting of the commission will be held August 12 & 13, 2002 in Pierre.

There being no further business, Wittrig moved to adjourn at 11:50 a.m.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on June, 17, 18 & 19, 2002.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**APRIL 1 & 2, 2002**

**OLINGER, LOVALD, ROBBENNOLT, MCCAHERN & REIMERS PC BUILDING**

**117 EAST CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on April 1, 2002 in the Conference Room of the Olinger, Lovald, Robbennolt, McCahren & Reimers PC Building, Pierre, South Dakota. Present for the meeting were Chairman Charles Larkin, and commission members Loren Anderson, Jim Berven and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Anderson, second by Wittrig, to approve the minutes of the January 30 & 31, 2002 meeting. Motion carried.

Motion by Anderson, second by Wittrig, to accept the financial reports for January and February 2002. Motion carried.

In lieu of a formal hearing the commission agreed to offer to enter into Stipulations and Assurances of Voluntary Compliance with the licensees not complying with the requirements to carry E & O insurance. Motion by Wittrig, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Gerald Dewey to costs of \$250. Motion carried. Motion by Anderson, second by Wittrig, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Michael Harmacek to costs of \$250. Motion carried. Motion by Berven, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Jill Schaffer to costs of \$250. Motion carried.

The commission discussed the request of Duane and Susan Drew to reconsider the complaint which they had filed against The



Real Estate Center of Lead-Deadwood. Motion by Berven, second by Anderson, to deny the request as no further documentation was submitted regarding the complaint. Motion carried.

Discussion was held on the agenda for the Central/Western ARELLO District meeting to be held in Rapid City July 14-16, 2002.

Hearing Officer Hillary Brady at 2:58 p.m. convened the formal hearing on the application appeal of Kenneth Bracht. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher, and Kenneth Bracht. Hearing Officer Brady declared the hearing closed at 3:35 p.m.

Motion by Berven, second by Anderson, to enter into executive session at 3:40 p.m. Motion carried.

Motion by Berven, second by Anderson, to come out of executive session at 3:55 p.m. Motion carried.

Commission member Jim Berven left the meeting at 3:55 p.m.

Hearing Officer Hillary Brady at 4:05 p.m. convened the formal hearing on complaint #2002-011, SDREC vs. Paul Anderson. Present for the hearing in addition to the members of the commission were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher and defendant Paul Anderson. Commission Member Jim Berven recused himself from participation in the complaint. Hearing Officer Brady declared the hearing closed at 4:25 p.m.

Motion by Wittrig, second by Anderson, to enter into executive session at 4:30 p.m. Motion carried.

Legal counsel Jim Robbennolt, executive director Larry Lyngstad and secretary Norma Schilling left the meeting at 4:30.

Motion by Wittrig, second by Anderson, to come out of executive session at 4:40 p.m. Motion carried.

The meeting recessed at 4:41 p.m. and reconvened at 8:35 a.m. on April 2, 2002.

Commission member Jim Berven was excused from the meeting at 8:40 a.m.

Motion by Anderson, second by Wittrig, to enter into executive session at 8:40 to review complaints. Motion carried.

Motion by Wittrig, second by Anderson to come out of executive session at 9:25 a.m. Motion carried.

Commission member Jim Berven joined the meeting at 9:30 a.m.

The commission reviewed the consent orders of the Nebraska Real Estate Commission involving Kenneth Kirkeby and Melvin Dreyer. This issue will be discussed with Melvin Dreyer when he appears before the commission in June.

Motion by Wittrig, second by Berven, to enter into executive session at 9:55 a.m. to review complaints. Motion carried.

Motion by Anderson, second by Wittrig, to come out of executive session at 11:25 a.m. Motion carried.

Complaint #2002-012, Hill vs. Advantage Appraisals/Slaughter. Motion by Berven, second by Wittrig, to hold an informal consultation. Motion carried.

Complaint #2002-013, SDREC vs. Coldwell Banker GKR & Associates/Tim Johnson/Garry. Motion by Anderson, second by Wittrig, to hold in informal consultation. Motion carried.

Complaint #2002-014, Oswald vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Dreyer. Motion by Wittrig, second by Berven, to move to a formal hearing. Motion carried.

Complaint #2002-015, Stewart/Damberger vs. Johnson Joy Real Estate/Mundt. Motion by Wittrig, second by Anderson, to move to formal hearing. Motion carried.

Motion by Berven, second by Wittrig, to dismiss the complaint against Kenn Mittel and issue a letter of admonishment regarding his failure to provide proof of E & O insurance. Motion carried.

Complaint #2002-009, Astle vs. Martin Jurisch & Associates/Martin Jurisch. Motion by Berven, second by Anderson, to dismiss

the complaint with a letter reminding him on future transactions to verify the lot lines on the property he is selling. Motion carried.

The executive director informed the commission that he has been invited to speak at the ARELLO Southern District meeting in Puerto Rico June 19-22, 2002. However, he will not be able to attend the meeting.

Commission member Loren Anderson left the meeting at 11:58 a.m.

Discussion was held on complaint #2002-006, SDREC vs. Century 21 Professional Real Estate/Youngberg. Motion by Berven, second by Wittrig, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Harvey Youngberg to a 30 day suspension of his license, fine of \$1,000 and 6 hours of education in contract law and 6 hours of education in agency law to be taken other than through the caravans. If he does not agree to this then the commission will proceed with the formal hearing. Motion carried.

The next meeting of the commission will be held June 17-19, 2002 in Pierre.

There being no further business, Berven moved, seconded by Wittrig, to adjourn at 12:10 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on April 1 & 2, 2002.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**JANUARY 30 & 31, 2002**

**COMMERCE BUILDING**

**118 WEST CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on January 30, 2002 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Charles Larkin, and commission members Loren Anderson, Jim Berven and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Mark Moreno, attorney for Ted Thoms, joined the meeting at 1:05 for a conference with the commission. Following the conference, Wittrig moved, seconded by Anderson, to enter into executive session at 1:50 p.m. Motion carried. Motion by Berven, second by Anderson, to come out of executive session at 2:10 p.m. Motion by Anderson, second by Berven, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Ted Thoms to complete 6 hours of continuing education in contracts and 6 hours of continuing education in license law within one year. This to be in addition to the required 24 hours of continuing education. If Mr. Thoms does not agree to the stipulation, the case will continue in court. Motion carried. Mark Moreno left the meeting at 2:30 p.m.

Jerry Youngberg of the North Dakota Real Estate Commission joined the meeting at 1:30 p.m. and left at 2:45 p.m.

Motion by Anderson, second by Wittrig, to approve the minutes of the December 11 & 12, 2001 meeting. Motion carried.

Motion by Berven, second by Wittrig, to accept the financial reports for November and December 2001. Motion carried.

Chairman Charles Larkin at 3:00 p.m. convened the rehearing on the application appeal of Gerald LaQua. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and court reporter Cheri Whittler. Gerald LaQua and his attorney Stephen Landon appeared telephonically. Chairman Larkin declared the hearing closed at 3:55 p.m. Motion by Anderson, second by Wittrig, to enter into executive session at 4:00 p.m. Motion carried. Motion by Berven, second by Anderson, to come out of executive session at 4:30 p.m. Motion carried.

Motion by Wittrig, second by Anderson, to grant a salesperson's license to Gerald LaQua under the condition that both Mr.

LaQua and his broker send quarterly reports to the commission for 2 years and that Mr. LaQua inform his broker of the previous incident which led to his conviction. Motion carried.

The executive director updated the commission on legislation involving or affecting the Real Estate Commission.

The meeting recessed at 5:05 p.m. and reconvened at 8:40 a.m. on January 31, 2002.

Motion by Wittrig, second by Berven, to enter into executive session at 8:50 a.m. to review complaints. Motion carried.

Motion by Anderson, second by Wittrig, to come out of executive session at 10:35 a.m. Motion carried.

Complaint #2002-006, Anders vs. Century 21 Professional Real Estate/Youngberg. Motion by Wittrig, second by Berven, to move to a formal hearing. Motion carried. Commission member Loren Anderson recused himself from participation in the complaint.

Complaint #2002-008, Brightman vs. Prudential Kahler REALTORS/Corey. Motion by Berven, second by Anderson, to move to a formal hearing. Motion carried.

Complaint #2002-009, Astle vs. Martin Jurisch & Associates/Martin Jurisch. Motion by Wittrig, second by Anderson, to hold an informal consultation. Motion carried.

Complaint #2002-010, Drew vs. The Real Estate Center of Lead-Deadwood/Johnson. Motion by Berven, second by Anderson, to dismiss the complaint. Motion carried.

Complaint #2002-011, SDREC vs. Paul Anderson. Motion by Berven, second by Wittrig, to move to a formal hearing pending further investigation and documentation from Premier Bank. Motion carried.

Discussion was held on ideas and topics for hosting the Central/Western ARELLO meeting to be held in Rapid City July 14-16, 2002.

Discussion was held on the ARELLO Board of Directors meeting to be held in Fort Worth, Texas April 11-13, 2002. Motion by Berven, second by Wittrig, to submit a request for two commission members to attend the meeting. Motion carried.

The next meeting of the commission will be held April 1, 2 & 3, 2002 in Pierre.

There being no further business, Berven moved, seconded by Anderson, to adjourn at 11:55 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on January 30 & 31, 2002.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**DECEMBER 11 & 12, 2001**

**COMMERCE BUILDING**

**118 WEST CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 2:00 p.m. on December 11, 2001 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Charles Larkin, and commission members

Loren Anderson and Jim Berven. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling. Commission Member Wittrig joined the meeting at 4:40 p.m.

Motion by Anderson, second by Berven, to approve the minutes of the October 29, 30 & 31, 2001 meeting. Motion carried.

Motion by Berven, second by Anderson, to accept the financial reports for September and October 2001. Motion carried.

The executive director updated the commission on the need to upgrade computer software to allow the renewing of licenses online and for licensees to be able to access their data file online to check their education records.

Discussion was held on the petition for a rehearing on the application denial of Gerald LaQua. Motion by Berven, second by Anderson to grant Gerald LaQua a rehearing. Motion carried.

Jim Robbennolt left the meeting at 3:45 p.m.

The commission reviewed and discussed draft legislation being considered by the Association of Realtors regarding single licensing and an increase in licensing fees.

The executive director briefed the commission on the need for a new copy machine. The commission tabled the matter until the executive director receives the costs from Century Business for buying or leasing a new copy machine.

Discussion was held on reprinting of the license law book. Motion by Anderson, second by Berven, to have the executive director request bids for reprinting of the license law book after the 2002 legislative session, and have 1,000 copies printed with one copy provided to each real estate office and the remainder sold upon request at cost. Motion carried.

Commission member Wittrig joined the meeting at 4:40 p.m.

The commission reviewed a rehabilitation order received regarding Frontier Insurance.

The meeting recessed at 4:55 p.m. and reconvened at 8:30 a.m. on December 12, 2001.

The commission reviewed the Findings of Fact, Conclusions of Law and Order on Kim Smith. Motion by Berven, second by Anderson, to adopt the proposed decision of Hearing Officer Leo Disburg to dismiss the complaint. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law and Order on Roger Swanson. Motion by Berven, second by Wittrig, to enter into executive session at 9:20 a.m. for discussion. Motion carried.

Motion by Berven, second by Anderson, to come out of executive session at 9:50 a.m. Motion carried.

Motion by Berven, second by Wittrig, to amend the proposed decision of Hearing Officer Leo Disburg on Roger Swanson to include a 2 year suspension of his license with the suspension stayed, on condition that he pay the penalty of \$750 and costs of the hearing within 30 days, and that he successfully completes an additional 24 hours of education of which 12 hours to be in license law and 12 hours in agency law. The education is to be completed within 12 months. Motion carried.

The commission reviewed complaint #2002-007, Lehman vs. RE/MAX in the Hills/McDowall. Motion by Berven, second by Anderson, to hold an informal consultation, or in lieu of an informal consultation, propose that licensee Maria McDowall enter into a Stipulation and Assurance of Voluntary Compliance for alleged violation of SDCL 36-21A-71(1), (11) and 36-21A-74 and pay a penalty of \$250 plus cost of investigation of \$100. Motion carried.

Motion by Wittrig, second by Anderson, to file a complaint against Tom Garry for failing to treat all parties to a transaction fairly and Tim Johnson for lack of broker supervision. Motion carried.

The commission reviewed the requests for waiver of education for Harley McFerran and Clarence Junker. Motion by Wittrig, second by Berven, to approve the requests for waiver of education of Harley McFerran and Clarence Junker. Motion carried.

The executive director informed the commission that he had received the information requested for leasing or buying a new copy machine. After reviewing the options, Anderson moved, seconded by Wittrig, to enter into a contract with Century Business to lease a new copy machine. Motion carried.

The commission reviewed the request of Paul Van Leuven regarding reporting requirements for polybutylene piping. The executive director was instructed to notify Mr. Van Leuven that the commission agrees with his method of describing

polybutylene piping to his clients.

Discussion was held on a letter received from Michael Reynolds regarding the costs assessed to Brian Peck. Motion by Berven, second by Wittrig, to have the executive director negotiate a reduction in fees with Mr. Reynolds with the fees being no less than \$1,000. Motion carried.

Legal counsel Jim Robbennolt and commission member Loren Anderson left the meeting at 10:50 a.m.

Discussion was held on payments made from the Recovery Fund. The commission will proceed with the motion previously made using interest money to replace money paid from the Recovery Fund.

The next meeting of the commission will be held January 30 & 31, 2002 in Pierre.

There being no further business, Wittrig moved, seconded by Berven, to adjourn at 11:15 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on December 11 & 12, 2001.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**OCTOBER 29, 30 & 31, 2001**

**COMMERCE BUILDING**

**118 WEST CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on October 29, 2001 in the Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Charles Larkin and commission members Loren Anderson, Jim Berven and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Chairman Larkin handed the gavel over to Vice-Chairman Wittrig for commission discussion on complaint #2000-26. Chairman Larkin recused himself from any participation. Motion by Berven, second by Anderson, to have the commission's legal counsel negotiate with defendant Merlin Voorhees' legal counsel to payment of costs of \$5,000 but not less than \$2,000. Motion Carried.

Vice-Chairman Wittrig handed the gavel back to Chairman Larkin.

Motion by Berven, second by Anderson, to approve the minutes of the September 13, 2001 meeting. Motion carried.

The executive director informed the commission that the Association of REALTORS would be proposing legislation on single licensing and to increase license fees. Motion by Berven, second by Wittrig, to support the Association of REALTORS on the proposed legislation. Motion carried.

Motion by Wittrig, second by Anderson, to enter into executive session at 1:25 p.m. Motion carried.

The informal consultation on the complaint #2001-029, Voegele vs. Montgomery Agency Real Estate/Foss was convened by Chairman Larkin at 1:30 p.m. Present for the consultation in addition to the chairman were commission members Loren Anderson and Judy Wittrig. Commission member Berven recused himself from any participation in the complaint. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, Pat Kisely and defendant Brian Foss. Complainant Clayton Voegele appeared telephonically. The consultation concluded at 2:25 p.m.

Motion by Anderson, second by Wittrig, to come out of executive session at 2:45 p.m. Motion carried.

Motion by Wittrig, second by Anderson, to propose to enter into a Stipulation and Assurance of Voluntary Compliance with Brian Foss. Proposed that Foss reimburse the commission \$500 for costs and that he complete an additional 12 hours of education in agency law and other required subject areas. Motion carried.

The executive director gave a report on the Annual ARELLO Conference held in Memphis October 13-16, 2001. He informed the commission that he was the unofficial host to the delegates from Western Australia and South Africa. The delegates commented on the quality and quantity of information available on the state's web site.

Motion by Berven, second by Anderson, to enter into executive session at 4:10 p.m. to review complaints. Motion carried.

Motion by Berven, second by Anderson, to come out of executive session at 4:25 p.m. Motion carried.

Complaint #2001-015, Zuebke vs. Liebe Properties, Inc./Liebe. Motion by Anderson, second by Wittrig, to dismiss the complaint. Motion carried.

Complaint #2001-010, VanSteenwyk vs. Lehman Realty/Lehman. Motion by Berven, second by Wittrig, to close the file with no action taken. Motion carried.

The formal hearing on the application appeal of Gerald LaQua was convened by Chairman Larkin at 4:30 p.m. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and Gerald LaQua. The hearing closed at 4:50 p.m.

Motion by Wittrig, second by Anderson, to deny the application appeal of Gerald LaQua. Motion carried.

The meeting recessed at 5:22 p.m. and reconvened at 8:30 a.m. on October 30, 2001.

Hearing Officer Leo Disburg at 9:15 a.m. convened the formal hearing on complaint #2001-032, SDREC vs. Coldwell Banker GKR & Associates/Swanson. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher, Tim Johnson, Joyce Swanson, defendant Roger Swanson, and Jim Carlon (attorney for the defendant). Mark Schulz and Mark Youngberg appeared telephonically. Hearing Officer Disburg declared the hearing closed at 11:55 a.m.

The meeting recessed for lunch at 12:00 noon and reconvened at 1:00 p.m.

Hearing Officer Leo Disburg at 1:05 p.m. convened the formal hearing on complaint #2001-033, SDREC vs. Coldwell Banker GKR & Associates/Johnson/Smith. Present for the hearing in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher, Tim Johnson, Marlys Hemp, defendant Kim Smith, Jim Carlon (attorney for the defendant and witnesses Michelle Hemp, Tom Garry and Anita Thomas. Witness Gail Hender appeared telephonically. Hearing Officer Disburg declared the hearing closed at 3:15 p.m.

Motion by Wittrig, second by Berven, to enter into executive session at 3:40 p.m. Motion carried.

Motion by Berven, second by Wittrig, to come out of executive session at 4:40 p.m. Motion carried.

Motion by Berven, second by Wittrig, to adopt the proposed Findings of Fact, Conclusions of Law and Order of Hearing Officer Hillary Brady on Brian Peck, that he receive a fine of \$100 and pay costs of the hearing. No additional education is required. Motion carried.

Motion by Anderson, second by Berven, to enter into executive session at 4:45 p.m. to review complaints. Motion carried.

Motion by Wittrig, second by Berven, to come out of executive session at 4:55 p.m. Motion carried.

Complaint #2001-028, Douglas vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Hall. Motion by Berven, second by Anderson, to dismiss the complaint. Motion carried.

Complaint #2002-001, Raske vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Hall. Motion by Berven, second by Anderson, to dismiss the complaint on the condition that the agreed upon work is completed. Motion carried.

The meeting recessed at 5:00 p.m. and reconvened at 8:30 a.m. on October 31, 2001.

Commission member Berven gave a report on the Annual ARELLO Conference held in Memphis October 13-16, 2001. He reported on several topics that were discussed involving real estate commission members.

The executive director reminded the commission that South Dakota will be hosting a joint Central and Western District ARELLO meeting in July 2002 and that he will be working on program topics for the meeting.

Discussion was held on representation of buyers and sellers in a real estate transaction.

The executive director informed the commission that they need to consider legislation to redefine the duties and tasks of a real estate broker.

The next meeting of the commission will be held December 4 & 5, 2001 in Pierre.

Motion by Berven, second by Wittrig, to enter into executive session at 9:40 a.m. Motion carried.

Motion by Anderson, second by Berven, to come out of executive session at 9:58 a.m. Motion carried.

There being no further business, Anderson moved, seconded by Berven, to adjourn at 10:00 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on October 29, 30 & 31, 2001.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**SEPTEMBER 13, 2001**

**BLACK HILLS INN**

**323 S 27<sup>TH</sup> ST**

**SPEARFISH, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 9:30 a.m. on September 13, 2001 in the Conference Room of the Black Hills Inn, Spearfish, South Dakota. Present for the meeting were Chairman Charles Larkin and commission members Loren Anderson, Jim Berven and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Anderson, second by Wittrig, to approve the minutes of the August 13 & 14, 2001 meeting. Motion carried.

Motion by Anderson, second by Wittrig, to accept the financial reports for July & August 2001. Motion carried.

Motion by Berven, second by Wittrig, to accept the year end report for FY 2001. Motion carried.

Hearing Officer Hillary Brady at 10:05 a.m. convened the formal hearing on complaint #2001-025, SDREC vs. Accurate Home Inspections and Consulting, Inc./Peck. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Tricia Mutchler, defendant Brian Peck, defendant's attorney Michael Reynolds, Gene Lebrun (attorney for the Martins), witnesses Robert Martin, Kay Martin, Jerry Brown, Dee Stangarone, Scott Raczynski, Shannon Ballard and Bev Hammon. The commission recessed for a break at 2:10 p.m. and reconvened at 2:40 p.m. The hearing closed at 4:15 p.m.

The commission reviewed the proposal of Mark Moreno on behalf of John Kahler. Motion by Wittrig, second by Anderson, to adopt the proposal to John Kahler pay costs of \$500 and take 6 additional hours of continuing education. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law and Order on Ted Thoms. Motion by Berven, second by

Anderson, to adopt the proposed order of Hearing Officer Leo Disburg to a penalty of \$500, reimbursement of expenses and additional continuing education consisting of 6 hours contracts and 6 hours license law. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law and Order on Merlin Voorhees. Motion by Berven, second by Anderson, to adopt the proposed order of Hearing Officer Leo Disburg to a penalty of \$250, reimbursement of expenses and complete the 60 hour broker course. Motion carried.

Motion by Anderson, second by Wittrig, to enter into executive session at 4:40 p.m. to review complaints. Motion carried.

Motion by Berven, second by Wittrig, to come out of executive session at 4:47 p.m. Motion carried.

Complaint #2001-028, Douglas vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Hall. Motion by Berven, second by Wittrig, to defer to the October meeting. Motion carried.

Complaint #2002-001, Raske vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Hall. Motion by Berven, second by Wittrig, to defer to the October meeting. Motion carried.

Complaint #2002-005, Ingle vs. Coldwell Banker Action Realty/Chase. Motion by Berven, second by Wittrig, to dismiss the complaint. Motion carried.

Discussion was held on legislation.

The next meeting of the commission will be held on October 29, 30 & 31, 2001 in Pierre.

There being no further business, Wittrig moved, seconded by Anderson, to adjourn at 5:05 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on September 13, 2001.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**AUGUST 13 & 14, 2001**

**COMMERCE BUILDING**

**118 W CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on August 13, 2001 in the 2<sup>nd</sup> Floor Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Charles Larkin and commission members Loren Anderson, Jim Berven and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Anderson, second by Berven, to approve the minutes of the June 11, 12 & 13, 2001 meeting with an amendment to the motion on page 3, regarding Robert Peterson, to include 6 hours of continuing education in license law. Motion carried.

Motion by Anderson, second by Wittrig, to accept the financial report for June 2001. Motion carried.

Hearing Officer Leo Disburg at 1:35 p.m. convened the formal hearing on complaint #2001-023, SDREC vs. Thoms Company Real Estate/Thoms. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Cheri Wittler, defendant Ted Thoms, witnesses John



McDonald, Barbara McDonald, and Mark Vellinga, and Al Johnson. Hearing Officer Disburg declared the hearing closed at 3:27 p.m.

Motion by Berven, second by Wittrig, to enter into executive session at 3:30 p.m. Motion Carried.

Motion by Wittrig, second by Anderson, to come out of executive session at 4:05 p.m. Motion carried.

Hearing Officer Leo Disburg at 4:10 p.m. convened the formal hearing on complaint #2001-014, SDREC vs. Black Hills Realty/Foley. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and court reporter Cheri Wittler. Defendant Patrick Foley, his attorney Bart Banks and Charles Hunt appeared telephonically. Motion by Berven, second by Wittrig, to take Bart Banks motion to dismiss the complaint against Patrick Foley under advisement. Motion carried. Hearing Officer Disburg declared the hearing closed at 4:58 p.m.

Motion by Berven, second by Wittrig, to enter into executive session at 5:05 p.m. Motion carried

Motion by Berven, second by Anderson, to come out of executive session at 5:20 p.m. Motion carried.

Motion by Anderson, second by Wittrig, to grant the motion to dismiss the complaint against Patrick Foley. Motion carried.

The meeting recessed at 5:22 p.m. and reconvened at 8:30 a.m. on August 17, 2001.

The executive director informed the commission that he had been approached by the computer techs that the current computer system needs to be upgraded.

Discussion was held on information the executive director received on internet "broker reciprocity".

Discussion was held on legislation with changes to be made in SDCL 36-21A-70. Discussion was held on changes to be made on the purchase agreement.

Motion by Anderson, second by Wittrig, to enter into executive session at 10:25 a.m. to review complaints. Motion carried.

Motion by Wittrig, second by Berven, to come out of executive session at 11:15 a.m. Motion carried.

The formal hearing on the application appeal of Myron Mason was convened by Chairman Larkin at 11:20 a.m. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and Myron Mason. The hearing closed at 11:50 a.m.

Motion by Berven, second by Wittrig, to accept the salesperson's application of Myron Mason. Motion carried.

The meeting recessed for lunch at 11:55 a.m. and reconvened at 1:05 p.m.

The formal hearing on the application appeal of Tom Schreiner was convened by Chairman Larkin at 1:10 p.m. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and Tom Schreiner. The hearing closed at 1:25 p.m.

Motion by Anderson, second by Wittrig, to accept the home inspector's application of Tom Schreiner. Motion carried.

The formal hearing on the application appeal of Laura Ruiz was convened by Chairman Larkin at 1:32 p.m. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and Laura Ruiz. The hearing closed at 2:05 p.m.

Motion by Wittrig, second by Anderson, to accept the salesperson's application of Laura Ruiz. Motion carried.

Complaint #2001-029, Voegelé vs. Montgomery Agency Real Estate/Foss. Motion by Wittrig, second by Anderson, to hold an informal consultation. Motion carried. Commission member Berven recused himself and did not participate in the reading, discussion or voting of the complaint.

Complaint #2001-020, SDREC vs. Sharon Shook. Motion by Berven, second by Anderson, to accept the signed Stipulation and Assurance of Voluntary Compliance and dismiss the formal complaint of Sharon Shook. Motion carried.

Complaint #2001-030, McCartney vs. Coldwell Banker GKR & Associates/Johnson/Ford. Motion by Anderson, second by Berven, to dismiss the complaint. Motion carried.

Complaint #2001-031, Egan vs. Hastings, Johnson & Nelson Real Estate/Johnson & Julie Billion. Motion by Berven, second by Anderson, to dismiss the complaint. Motion carried.

Complaint #2001-032, Schulz vs. Coldwell Banker GKR & Associates/Swanson. Motion by Wittrig, second by Berven, to move to a formal hearing. Motion carried.

Complaint #2001-033, Hemp vs. Coldwell Banker GKR & Associates/Johnson/Smith. Motion by Berven, second by Wittrig, to hold a formal hearing. Motion carried.

The executive director informed the commission that the Hearing Officer was unable to complete the Findings of Fact, Conclusions of Law & Order on Merlin Voorhees. He will have them completed for the September meeting.

Discussion was held on complaint #2001-024, SDREC vs. Weiman Land & Auction/Leitheiser. Motion by Berven, second by Anderson, to enter into a Stipulation and Assurance of Voluntary Compliance to dismiss the complaint with each party to the complaint to pay their own attorney fees and expenses. Motion carried.

Discussion was held regarding SDCL 36-21A-46.1 to the fact that there is no provision in the statute for a family member other than a spouse to form a corporation together.

Discussion was held on a letter of request from Renee Klug to waive the 60 day application requirement for a salesperson's license. Motion by Berven, second by Anderson, to deny the request for a waiver. Motion carried.

Legal counsel informed the commission that he had a request from Mark Moreno, attorney for John Kahler, that the disciplinary action not be published in the newsletter. Legal counsel informed Mr. Moreno that all disciplinary action is published.

The executive director informed the commission that he had received a letter from Cindy Grissom of Rice Insurance Services Company that MedMarc would renew the E & O insurance at the same cost as this year. Motion by Berven, second by Anderson, to accept the proposal of MedMarc. Motion carried.

The next meeting of the commission will be held on September 13, 2001 in Spearfish.

There being no further business, Berven moved, seconded by Wittrig, to adjourn at 3:00 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on August 13 & 14, 2001.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**JUNE 11, 12 & 13, 2001**

**COMMERCE BUILDING**

**118 W CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on June 11, 2001 in the 2<sup>nd</sup> Floor Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and commission members Jim Berven, Charles Larkin and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Larkin, second by Wittrig, to approve the minutes of the April 23, 24 & 25, 2001 meeting. Motion carried.

Motion by Berven, second by Wittrig, to accept the financial reports for April & May 2001. Motion carried.

Hearing Officer Leo Disburg at 1:30 p.m. convened the formal hearing on complaint #2000-026, SDREC vs. Action Buyers Resource/Voorhees. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Carla Bachand, defendant Merlin Voorhees, Scott Heidepriem (attorney for the defendant), witnesses Mark White, Don Rusch, Norbert Rusch, Pat Voorhees, Joe Sovell, Charles Larkin and Delmar Wilke. Witnesses Don Miles, Jr. and Tim DesLauries appeared telephonically. Commission member Charles Larkin recused himself from deliberations on the complaint. Hearing Officer Disburg declared the hearing closed at 6:35 p.m.

The meeting recessed at 6:40 p.m. and reconvened at 8:35 a.m. on June 12, 2001.

The executive director informed the commission that he would be attending the governmental affairs meeting with the Association of REALTORS and that he would be addressing legislation on single licensing.

Motion by Berven, second by Wittrig, to enter into executive session at 9:15 a.m. to review complaints. Motion carried.

Motion by Larkin, second by Wittrig, to come out of executive session at 10:25 a.m.

Motion carried.

Complaint #2001-010, VanSteenwyk vs. Lehman Realty/Lehman/Michels. Motion by Berven, second by Wittrig, to continue to a later date. Motion carried.

Complaint #2001-014, SDREC vs. Black Hills Realty/Foley. Motion by Berven, second by Wittrig, to proceed with a formal hearing. Motion carried.

Complaint #2001-015, Zuebke vs. Liebe Properties, Inc./Liebe. No further action taken at this time.

Complaint #2001-023, McDonald vs. Thoms Company Real Estate/Thoms. Continue with formal hearing.

Chairman Loren Anderson at 10:45 a.m. convened the formal hearing on complaint #2001-024, SDREC vs. Weiman Land & Auction/Leitheiser. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Carla Bachand, defendant Ronald Leitheiser, Dale Strasser (attorney for the defendant) and Tom Heiberger. Motion by Wittrig, second by Larkin to enter into executive session at 11:12 a.m. Motion carried. Attorney Dale Strasser objected to motion to enter into executive session. Motion by Berven, second by Wittrig, to rescind motion to enter into executive session. Motion carried. Motion by Berven, second by Wittrig, to deny the motion to dismiss the complaint with prejudice and deny the motion for resistance for the continuance. Motion carried. Chairman Anderson declared the hearing closed at 11:25 a.m.

Motion by Larkin, second by Berven, to enter into executive session at 11:35 a.m. to review complaints. Motion carried.

The meeting recessed for lunch at 12:00 noon and reconvened at 1:00 p.m.

Motion by Larkin, second by Wittrig, to come out of executive session at 1:45 p.m. Motion carried.

Complaint #2001-025, Martin vs. Accurate Home Inspections & Consulting, Inc./ Peck. Motion by Wittrig, second by Larkin, to move to a formal hearing. Carried.

Complaint #2001-026, Brown vs. RE/MAX of Rapid City/Briney. Motion by Berven, second by Wittrig, to dismiss the complaint. Motion carried.

Complaint #2001-027, Zwart vs. Jaeger Realty/Jaeger. Motion by Larkin, second by Berven, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Colleen Jaeger for alleged violation of SDCL 36-21A-71(33) and 36-21A-130; that she pay a penalty of \$250, and complete 6 hours of continuing education in real estate contracts and 6 hours in license law. The education is in addition to education required for license renewal. If the offered agreement is not accepted the commission will move to an informal consultation. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law and Order on John Kahler and Douglas Lehman. Motion by Berven, second by Wittrig, to amend the proposed order on John Kahler and that he pay a fine of \$750 and half the costs of the hearing. The basis on this decision is that there was misrepresentation on warranties and facts, all be it not willful, which caused the purchasers to buy the property. Motion carried. Motion by Berven, second by Wittrig, to revoke the license of Douglas

Lehman, to impose a fine of \$2,500, and assess half the costs of the hearing. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law and Order on Robert Peterson. Motion by Berven, second by Larkin, to adopt the proposed order of Hearing Officer Leo Disburg. Motion carried.

Motion by Berven, second by Wittrig, to have the executive director file a complaint against Randy Rozeboom of RE/MAX Professionals, Inc. for failure to supervise. Motion carried.

The commission reviewed a letter received from Kim Kiepke. Motion by Berven, second by Wittrig, to accept the letter of Kim Kiepke and order the cancellation of her license. Motion carried.

The commission reviewed a letter received from Marlowe Severson. Motion by Larkin, second by Wittrig, to accept the letter of Marlowe Severson and order the cancellation of his license. Motion carried.

The commission reviewed a letter received from Dave Kahler. Following discussion, the executive director was instructed to write a letter to Dave Kahler and refer him to SDCL 36-21A-6.

Discussion was held on possible legislation on the handling of earnest money. Motion by Berven, second by Larkin, to defer any action regarding earnest money. Motion carried.

This being the time and place to elect new officers for the Real Estate Commission, Chairman Anderson opened nominations. Berven nominated Larkin for Chairman and Wittrig for Vice-Chairman and moved that nominations cease. Anderson seconded. Motion carried with Larkin and Wittrig elected.

The meeting recessed at 4:25 p.m. and reconvened at 8:45 a.m. on June 13, 2001.

The public rules hearing was called to order by hearing officer Jim Robbennolt at 9:12 a.m. The Executive Director discussed changes as proposed by the Legislative Research Council. The hearing closed at 9:25 a.m.

Discussion was held on the reprinting of the license law book. Motion by Berven, second by Wittrig, to contract to have the license law book reprinted in bound form with the new statute and rule changes, and print a sufficient number so that one would be available for each real estate office and an adequate number for the instructors. Also, to print two dozen in loose-leaf form for commission members and staff. Motion carried.

Motion by Wittrig, second by Berven, to enter into executive session at 10:50 a.m. Motion carried.

The informal consultation on the complaint #2001-004, Steinke vs. Jensen & Massa/Jensen was convened by Chairman Anderson at 10:55 a.m. Present for the consultation in addition to the chairman were commission members Jim Berven, Charles Larkin and Judy Wittrig. Also present were legal counsel Jim Robbennolt, executive

director Larry Lyngstad, secretary Norma Schilling, complainant Alan Steinke and defendant Paul Jensen. The consultation concluded at 11:58 a.m.

Motion by Berven, second by Larkin, to come out of executive session at 12:20 p.m. Motion carried.

Motion by Berven, second by Wittrig, to offer to propose to enter into a Stipulation and Assurance of Voluntary Compliance with Paul Jensen for alleged violation of SDCL 36-21A-71(31) and that he pay costs of \$300. Motion carried.

Legal counsel informed commission that he had received a call from Mark Moreno, attorney for John Kahler, with a request to compromise the formal hearing and enter into a Stipulation and Assurance of Voluntary Compliance. Motion by Wittrig, second by Larkin, to have legal counsel prepare a Stipulation and Assurance of Voluntary Compliance on John Kahler. Motion carried.

The next regular meeting of the commission will be held on August 13, 14 & 15, 2001 in Pierre.

There being no further business, Wittrig moved, seconded by Berven, to adjourn at 12:35 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on June 11, 12 & 13, 2001.

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**SOUTH REAL ESTATE COMMISSION**

**APRIL 23, 24 & 25, 2001**

**COMMERCE BUILDING**

**118 W CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on April 23, 2001 in the 2<sup>nd</sup> Floor Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and commission members Jim Berven, Charles Larkin and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Berven, second by Wittrig, to approve the minutes of the March 5, 6 & 7, 2001 meeting. Motion carried.

Motion by Berven, second by Wittrig, to accept the financial reports for February & March 2001. Motion carried.

The commission reviewed proposed administrative rules ARSD 20:69:02:03, 20:69:03:12.01, 20:69:06:04 and 20:69:14:02.1. Motion by Berven, second by Wittrig to approve as proposed. Motion carried.

The commission reviewed the proposed changes to the administrative rules on preliensing education. Motion by Berven, second by Larkin, to approve the proposed rules with changes as noted. Motion carried.

The commission reviewed the proposed changes to the administrative rules on continuing education. Motion by Berven, second by Wittrig, to approve the proposed rules with changes as noted. Motion carried.

John Kahler of First Tri State Realty and his attorney Mark Moreno appeared before the commission at 3:35 p.m. with a request for an informal consultation or for severance. Following hearing attorney Mark Moreno's request, Wittrig moved, seconded by Berven, to enter into executive session at 4:20 p.m. Motion carried.

Motion by Wittrig, second by Larkin, to come out of executive session at 4:35 p.m. Motion carried.

Motion by Berven, second by Larkin, to deny the petition to set aside the formal hearing on John Kahler and to separate the complaint of John Kahler and Doug Lehman and deny the request for an informal consultation on John Kahler for the following reasons: (1) the commission can determine the difference between the parties and will not let one person's alleged bad record taint the other; (2) the commission has the administrative hearing officer and court reporter set as well as time, date and place set; (3) different allegations against the parties; and (4) the Thibodeaus, as consumers, should not be subject to 2 to 3 hearings on this case. Motion carried.

Motion by Berven, second by Wittrig, to enter into executive session at 4:50 p.m. to discuss personnel matters. Motion carried.

Legal counsel Jim Robbennolt and secretary Norma Schilling left the meeting at 4:50 p.m.

Motion by Larkin, second by Wittrig, to come out of executive session at 5:30 p.m. Motion carried.

The meeting recessed at 5:35 p.m. and reconvened at 8:30 a.m. on April 24, 2001.

Discussion was held on information the executive director received from Gordon Howie stating the Department of Labor is requiring his corporation to pay unemployment tax from previous years.

Hearing Officer Leo Disburg at 9:05 a.m. convened the formal hearing on complaint #2001-003, SDREC vs. First Tri State Realty/Kahler & Lehman Realty/Lehman. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher, defendant John Kahler, Mark Moreno (attorney for the defendant) and witness Tami Thibodeau. Defendant Douglas Lehman did not appear for the hearing. Motion by Berven, second by Wittrig, to take under advisement attorney Mark Moreno's request to withdraw violation SDCL 36-21A-71(3) regarding willful misrepresentation. Motion Carried. Hearing Officer Disburg declared the hearing closed at 12:05 p.m.

The meeting recessed for lunch at 12:10 p.m. and reconvened at 1:05 p.m.

Hearing Officer Leo Disburg at 1:10 p.m. convened the formal hearing on complaint #2001-013, SDREC vs. RE/MAX Professionals, Inc./Peterson. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, Executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lynne Ormesher, defendant Robert Peterson, witnesses Denise Krauth, Chris Bradley and Karen Bradley. Hearing Officer Disburg declared the hearing closed at 2:37 p.m.

The commission reviewed the proposed changes to the administrative rules on home inspectors. Motion by Berven, second by Wittrig, to approve the proposed rules with changes as noted on prelicensing education, continuing education and the standards of practice for home inspectors. Motion carried.

The meeting recessed at 6:00 p.m. and reconvened at 8:30 a.m. on April 25, 2001.

Motion by Wittrig, second by Larkin, to enter into executive session at 8:40 a.m. to review complaints. Motion carried.

Motion by Berven, second by Wittrig, to come out of executive session at 9:30 a.m. Motion carried.

Complaint #2000-026, Action Buyers Resource/Voorhees & Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Chace. Legal counsel informed the commission that since it has been confirmed that defendant Jim Chace is deceased the commission can proceed with the formal hearing on Merlin Voorhees at the June meeting. Commission member Charles Larkin recused himself from deliberations on the complaint.

Complaint #2001-010, VanSteenwyk vs. Lehman Realty/Lehman/Michels. Motion by Berven, second by Wittrig, to move to a formal hearing. Motion carried.

Complaint #2001-014, SDREC vs. Black Hills Realty/Foley. Motion by Berven, second by Larkin, to move to a formal hearing. Motion carried.

Complaint #2001-017, SDREC vs. Craig Wilson. Motion by Wittrig, second by Larkin, to defer to a later date. Motion carried.

Complaint #2001-018, Foote vs. Century 21 Statewide Real Estate/Lyle Wendell. Motion by Wittrig, second by Berven, to dismiss. Motion carried.

Complaint #2001-019, Juhnke vs. Coldwell Banker GKR & Associates/Galen Schoffelman. Motion by Wittrig, second by Berven, to dismiss. Motion carried.

Complaint #2001-023, McDonald vs. Thoms Company Real Estate/Thoms. Motion by Wittrig, second by Larkin, to move to a formal hearing following further investigation. Motion carried.

Complaint #2001-024, SDREC vs. Weiman Land & Auction/Leitheiser. Motion by Wittrig, second by Larkin, to move to a formal hearing.

Complaint #2001-020, SDREC vs. E & O Complaints. Motion by Larkin, second by Wittrig, to summarily suspend the license of Marlowe Severson and move to a formal hearing. Motion carried. Motion by Larkin, second by Wittrig, to summarily suspend the license of Sharon Shook and move to a formal hearing. Motion carried. Motion by Larkin, second by Wittrig, to summarily suspend the license of Kim Kiepkke and move to a formal hearing. Motion carried.

The commission reviewed the proposed changes to the forms in the administrative rules. Motion by Larkin, second by Wittrig, to approve the forms with changes as noted. Motion carried.

Discussion was held on the operations of the accounting system for the commission under the Department of Commerce.

The commission reviewed the proposed budget for Fiscal Year 2002. Motion by Larkin, second by Wittrig, to adopt the proposed budget for Fiscal Year 2002. Motion carried.

Discussion was held on the appointment of an individual to serve as a commission member to replace Lynn Darnall following her resignation in March.

Discussion was held on a letter received from Frederic Moulton regarding licensing. The executive director was instructed to write Mr. Moulton informing him as to what the commission has done in the past with attorneys that have been disbarred.

The next regular meeting of the commission will be held on June 11, 12 & 13, 2001 in Pierre.

There being no further business, Larkin moved, seconded by Berven, to adjourn at 10:35 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on April 23, 24 & 25, 2001.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**MARCH 5, 6 & 7, 2001**

**COMMERCE BUILDING**

**118 W CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on March 5, 2001 in the 2<sup>nd</sup> Floor Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Vice Chairman Charles Larkin and commission members Jim Berven, Lynn Darnall and Judy Wittrig. Chairman Loren Anderson was not present for the meeting. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

The executive director informed the commission that Administrative Hearing Officer Leo Disburg was unable to complete the Findings of Fact, Conclusions of Law and Order on Wayne Mundt. Legal counsel said he would prepare the documents and have them to the commission before the end of the meeting.

The executive director briefed the commission on a salesperson's application from Rick Chandler that was filed in the commission office after the deadline. Following discussion, Berven moved, seconded by Darnall, to approve the sales application of Rick Chandler. Motion carried.

Motion by Berven, second by Darnall, to approve the minutes of the January 30, 31 & February 1, 2001 meeting with the following corrections: that commission member Larkin had recused himself from the complaint involving Jim Chace and Merlin Voorhees and to add #2001-011 to the complaint involving Rick Tysdal. Motion carried.

Motion by Darnall, second by Wittrig, to accept the financial report for January 2001. Motion carried.

Motion by Darnall, second by Wittrig, to enter into executive session at 1:25 P.M. Motion carried.

The informal consultation on the complaint #2001-007, Lord vs. Action Realty/Barker & Barker vs. RE/MAX River Cities/Lord was convened by Vice Chairman Larkin at 1:30 p.m. Present for the consultation in addition to the chairman were commission members Jim Berven, Lynn Darnall and Judy Wittrig. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, Janice Barker (wife/secretary of Charles Barker) and respondents Mary Pat Lord and Charles Barker. The consultation concluded at 4:10 p.m.

Motion by Berven, second by Wittrig, to come out of executive session at 4:13 p.m. Motion carried.

The formal hearing on the application appeal of Joe Hauk was convened by Vice Chairman Larkin at 4:15 p.m. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, Joe Hauk and Patty Hauk. The hearing closed at 4:32 p.m. Motion carried.

Following discussion, Wittrig moved, seconded by Berven, to grant a home inspector's license to Joe Hauk. Motion carried.

Motion by Darnall, second by Berven, to enter into executive session at 4:40 p.m. Motion carried.

Motion by Berven, second by Darnall, to come out of executive session at 5:10 p.m. Motion carried.

Motion by Wittrig, second by Berven, to dismiss complaint #2001-007, Lord vs. Action Realty/Barker & Barker vs. RE/MAX River Cities/Lord with letters of admonishment to Mary Pat Lord and Charles Barker. Motion carried.

The meeting recessed at 5:15 p.m. and reconvened at 8:30 a.m. on March 6, 2001.

Vice Chairman Larkin at 8:55 a.m. convened the formal hearing on complaint #2001-005, SDREC vs. O'Neill Realty/O'Neill. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and court reporter Lynne Ormesher. Defendant Eugene O'Neill was not present. The hearing closed at 8:58 a.m.

Following discussion, Darnall moved, seconded by Wittrig, to revoke the license of Eugene O'Neill and assess a penalty of \$2,500. Motion carried. The executive director was instructed to notify the Minnesota Department of Commerce regarding the disciplinary action.

Dee Jones joined the meeting and the commission reviewed the latest changes to the standard forms as proposed by the forms committee.

Discussion was held on the consideration of motions on complaint #2001-005, SDREC vs. Action Buyers Resource/Voorhees & Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Chace. Motion by Berven, second by Wittrig, to deny the request for a summary judgment. Motion carried. Motion by Darnall, second by Wittrig, to defer any further action until the commission reconvenes in April 2001. Motion carried.

Motion by Wittrig, second by Darnall, to enter into executive session at 11:30 a.m. to review complaints. Motion carried.

Motion by Berven, second by Darnall, to come out of executive session at 12:10 p.m. Motion carried.

Complaint #2000-021, Howard vs. Prairie Winds Realty/Raymond & Lynne Duling - Motion by Wittrig, second by Berven, to declare the previous proposed Stipulation and Assurance of Voluntary Compliance null and void and prepare new Stipulation and Assurance of Voluntary Compliance to dismiss the complaint and ask the licensees to agree to 12 hours of education in contracts, license law and agency law. Motion carried.

Complaint #2001-009, Nighbert vs. Sharp REALTORS, Inc. Peters - Motion by Berven, second by Darnall, to defer any action until such time as they attempt to activate their licenses, and to flag the licensee's files. Motion carried.

Complaint #2001-016, Keller vs. Century 21 New Age Real Estate Services/Jim & Darla Stevens/Derrickson – Motion by Darnall, second by Berven, to dismiss the complaint. Motion carried.

Complain #2001-017, Prudential Kahler REALTORS vs. Craig Wilson – Motion by Darnall, second by Berven, to move to a formal hearing. Motion carried.

Commission member Wittrig left the commission meeting at 12:15 p.m.

The meeting recessed for lunch at 12:15 p.m. and reconvened at 1:30 p.m.

The commission reviewed the Findings of Fact, Conclusions of Law and Order on Wayne Mundt. The gavel was turned over to commission member Darnall for the following motion. Motion by Berven, second by Larkin, adopt the Findings of Fact and Conclusions of Law, and to assess a penalty of \$100, costs of the hearing, and to require 6 hours of continuing education in license law. Motion carried.

The gavel was turned back to Vice-Chairman Larkin.

Complaint #2001-014, SDREC vs. Black Hills Realty/Foley – Motion by Berven, second by Darnall, to offer to enter into a Stipulation and Assurance of Voluntary Compliance to a penalty of \$800, cost of the investigation and that he must register as a corporation with the Real Estate Commission. Motion carried.

The commission reviewed information received on Results Homebuyers. Motion by Berven, second Darnall, to have legal counsel prepare a cease and desist order for unlicensed real estate activity. Motion carried.

The commission reviewed information received regarding By Owner Sales and Anderson & Associates. Motion by Berven,



second by Darnall, to have the executive director and legal counsel conduct an investigation and take appropriate action. Motion carried.

The formal hearing on the application appeal of Janice Tuthill was convened by Vice-Chairman Larkin at 3:30 p.m. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, Janice Tuthill and John Tuthill. The hearing closed at 4:10 p.m.

Following discussion, Berven moved, seconded by Darnall, to approve the application and issue a license to Janice Tuthill provided: (1) the executive director gets a favorable report from the probation officer, (2) that she explains her circumstances to her employing broker, (3) that we receive a letter from the broker requesting her license and (4) that the broker send quarterly reports of her real estate activities for two years. Motion carried.

The meeting recessed at 4:45 p.m. and reconvened at 8:30 a.m. on March 7, 2001.

The commission reviewed the 4 year plan that was prepared on April 1, 1999 and noted the accomplishments.

Motion by Berven, second by Darnall, to authorize the executive director to form a committee to address single level licensing and to pay their expenses. Motion carried.

The executive director informed the commission that the staff will be handling the renewals for E & O insurance in the future due to problems encountered with the renewals for this year.

Department Secretary Dave Volk joined the commission meeting at 10:35. The commission addressed concern they have with the proposal of the Federal Reserve Bank to consider real estate brokerage as financial services. Dave left the meeting at 11:25 a.m.

The executive director updated the commission on issues involving the complaint and the upcoming court trial against Sandy Schatz.

Lynn Darnall announced that she would be resigning from the commission after having served 11 years. Lynn was commended for her dedicated service.

The next regular meeting of the commission will be held April 23, 24 & 25, 2001 in Pierre.

There being no further business, Darnall moved, seconded by Berven, to adjourn at 11:30 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on March 5, 6 & 7, 2001.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**JANUARY 30, 31 & FEBRUARY 1, 2001**

**COMMERCE BUILDING**

**118 W CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened at 1:00 p.m. on January 30, 2001 in the 2<sup>nd</sup> Floor Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson and commission members Jim Berven, Charles Larkin and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Hearing Officer Leo Disburg at 1:25 p.m. convened the formal hearing on the complaint #2001-008, SDREC vs. Johnson Joy Real Estate/Mundt. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lori Grode, defendant Wayne Mundt, Tom Brady (attorney for the defendant) and witness Roger Tellinghuisen. Hearing Officer Disburg declared the hearing closed at 2:55 p.m.

Motion by Larkin, second by Berven, to approve the minutes of the December 20, 2000 conference call meeting. Motion carried.

Motion by Berven, second by Wittrig, to accept the financial reports for October, November and December 2000. Motion carried.

Discussion was held regarding the Stipulation and Assurance of Voluntary Compliance for Raymond and Lynne Duling. Motion by Larkin, second by Berven, to have legal counsel call Dan Howard to inform him that the commission's intent was that the money for the sewer hookup be paid directly to the contractor. Motion carried.

Legal counsel informed the commission that the attorneys for Jim Chace and Merlin Voorhees had proposed a pre-hearing conference to be held on January 31, 2001 since the hearing was postponed due to weather conditions. Following discussion, the commission agreed to hold a pre-hearing conference.

The meeting recessed at 5:10 p.m. and reconvened at 10:00 a.m. on January 31, 2001.

The pre-hearing conference with Ron Banks and Scott Heidepriem, attorneys for Jim Chace and Merlin Voorhees, was held at 10:15 a.m. The conference concluded at 10:40 a.m.

The executive director informed the commission that legislation proposed by the commission had passed through the House and is awaiting hearing in the Senate Commerce Committee.

The executive director informed the commission that the ARELLO Midyear and Board of Directors meeting will be held April 5-7, 2001 in Baltimore, Maryland. Motion by Berven, second by Larkin, to request the attendance of the executive director and three commission members at the meeting. Motion carried.

Discussion was held regarding the question involving bankruptcy on the real estate application. Following discussion, it was agreed to shorten the question to only asking if the individual had filed bankruptcy within the last seven years and if it had been discharged.

The meeting recessed for lunch at 12:15 p.m. and reconvened at 1:30 p.m. Commission member Lynn Darnall joined the meeting at this time.

Motion by Wittrig, second by Berven, to enter into executive session at 1:35 p.m. to review potential litigation. Motion carried.

Motion by Berven, second by Larkin, to come out of executive session at 4:35 p.m. Motion carried.

Motion by Berven, second by Darnall, to dismiss complaint #2001-006, Hofer vs. Weber Realty/Weber. Motion carried.

Motion by Wittrig, second by Darnall, to hold an informal consultation on complaint #2001-007, Lord vs. Action Realty/Barker & Barker vs. RE/MAX River Cities/Lord. Motion carried.

Motion by Berven, second by Darnall, to dismiss that portion of complaint #2001-010, VanSteenwyk vs. Lehman Realty/Lehman/Michels that referenced lot size and to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Douglas Lehman and Paul Michels for alleged violations of SDCL 36-21A-74, 36-21A-80, 36-21A-130 and 36-21A-147. The Stipulation is to include that they pay a penalty of \$500. If the terms of the proposed agreement are not accepted the commission may conduct further proceedings. Motion carried.

Motion by Darnall, second by Larkin, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Rick Tysdal for alleged violation of SDCL 36-21A-71(14), 36-21A-71(20) and 36-21A-130 and that he pay a penalty of \$500 and complete 6 hours of education in real estate contracts. The education is in addition to education required for license renewal. If the offered agreement is not accepted the commission may conduct further proceedings. Motion carried.

Motion by Darnall, second by Larkin, to dismiss complaint #2001-012, Siemucha vs. Coldwell Banker Action Realty/Chase/Gross. Motion carried.

Motion by Darnall, second by Wittrig, to move to a formal hearing on complaint #2001-013, Bradley vs. RE/MAX Professionals, Inc./Peterson. Motion carried.

Motion by Berven, second by Wittrig, to table any decision to the next meeting and conduct further investigation on complaint #2001-014, SDREC vs. Black Hills Realty/Foley. Motion carried.

Motion by Larkin, second by Darnall, to table to a later date any decision on complaint #2001-015, Zubke vs. Liebe Properties, Inc./Liebe. Motion carried.

The executive director informed the commission that Dee Jones has been asked to make a presentation at the REEA Conference in June 2001. Motion by Berven, second by Larkin, to approve Dee to attend the conference as a presenter. Motion carried.

The meeting recessed at 4:50 p.m. and reconvened at 9:00 a.m.

Discussion was held regarding the request for continuing education waiver for Christine Lattea. Motion by Wittrig, second by Larkin, to grant an extension for completing continuing education requirements to March 15, 2001. Motion carried.

The commission set future meetings through August 2001.

The next regular meeting of the commission will be held March 5, 6 & 7, 2001 in Pierre.

There being no further business, Larkin moved, seconded by Berven, to adjourn at 10:30 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on January 30, 31 & February 1, 2001.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**DECEMBER 20, 2000**

**CONFERENCE CALL MEETING**

**COMMERCE BUILDING**

**118 W CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened a conference call meeting at 9:00 a.m. on December 20, 2000 in the 2<sup>nd</sup> Floor Conference Room of the Commerce Building, Pierre, South Dakota. Present for the conference call were Chairman Loren Anderson and commission members Jim Berven, Lynn Darnall, Charles Larkin and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Larkin, second by Berven, to approve the minutes of the October 26 & 27, 2000 meeting. Motion carried.

Discussion was held as to whether professional architects and engineers need to be licensed as home inspectors or if this is covered under the realms of their profession. Motion by Berven, second by Larkin, that professional architects and engineers be exempt from home inspector licensing and if they do home inspections under their present license they would be subject to disciplinary action through their board. Motion carried.

Discussion was held on the Bill Hegg/Jon Johnson stipulation. Motion by Berven, second by Larkin, that if licensees Bill Hegg and Jon Johnson choose not to accept the stipulation the commission will proceed to an informal consultation. Motion carried.

Discussion was held on complaint #2001-002, Vos vs. Heritage REALTORS/Thill. Motion by Berven, second by Wittrig, to hold an informal consultation. Second and motion withdrawn. Motion by Darnall, second by Berven, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Brad Thill and Tom Winker for alleged violation of SDCL 36-21A-71(9), 36-21A-71

(31) and 36-21A-130 with the following conditions: (1) defendants each pay a penalty of \$150 and (2) defendant Thill complete 6 hours of education in real estate contracts. The education is in addition to education required for license renewal. If the offered agreement is not accepted the commission may conduct further proceedings. Motion carried.

Discussion was held on complaint #2001-003, Thibodeau vs. First Tri State Realty/Kahler & Lehman Realty/Lehman. Motion by Larkin, second by Darnall, to move to a formal hearing. Motion carried.

Discussion was held on complaint #2001-004, Steinke vs. Jensen & Massa/Jensen. Motion by Berven, second by Larkin, to hold an informal consultation. Motion carried.

Discussion was held on complaint #2001-005, Sealey's Real Estate vs. O'Neill Realty/O'Neill. Motion by Berven, second by Darnall, to move to a formal hearing. Motion carried.

The Commission was updated on the status of the Joe and Lynne Duling stipulation.

Discussion was held on the formal complaint against Wayne Mundt regarding a letter from licensee's legal counsel. The commission made no change in their earlier decision to proceed to a formal hearing.

Legal counsel informed the commission that a hearing has been set for December 27, 2000 with the 6<sup>th</sup> Circuit Court against the recovery fund regarding Sandy Schatz.

Discussion was held on the formal complaint against Merlin Voorhees, Pat Voorhees and Jim Chace regarding a conference call meeting between the licensees' legal counsel, legal counsel for the commission, and the commission executive director. The commission made no change in their earlier decision to proceed to a formal hearing.

The next regular meeting of the commission will be held January 30, 31 & February 1, 2001 in Pierre.

There being no further business, Berven moved, seconded by Wittrig, to adjourn at 11:00 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on December 20, 2000.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**OCTOBER 26 & 27, 2000**

**2<sup>ND</sup> FLOOR CONFERENCE ROOM**

**COMMERCE BUILDING**

**118 W CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened its meeting at 1:05 p.m. on October 26, 2000 in the 2<sup>nd</sup> Floor Conference Room of the commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson, and commission members Jim Berven, Lynn Darnall and Charles Larkin. Commission member Judy Wittrig was not present for the meeting. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Berven, second by Darnall, to approve the minutes of the August 28 & 29, 2000 meeting. Motion carried.

Motion by Larkin, second by Berven, to accept the financial report as corrected for August 2000. Motion carried.

Motion by Larkin, second by Darnall, to accept the financial report for September 2000. Motion carried.

The executive director distributed a letter he had received from the Bureau of Administration asking the Real Estate Commission to cease using the modified South Dakota State Seal. The executive director was instructed to see if the commission can use up current supplies of documents with the present seal before implementing a new seal.

Discussion was held on the local checking account. Motion by Berven to agree to Secretary Volk's proposal on the following two conditions: (1) guarantee that the commission does not have to pay a processing fee on any refund check and (2) that he talk to Bureau of Administration to allow the commission to continue to use the present seal. Motion died for lack of a second. Motion by Darnall, second by Berven, that the commission discontinue the present checking account system and that funds be directly deposited to the State Treasury, with refunds and bills for small items paid through the Department of Commerce petty cash fund at no charge for processing those transactions. Motion carried.

The commission reviewed a letter received from Frontier Insurance. The executive director was instructed to contact Frontier Insurance to verify that the E & O insurance covers brokers in doing real estate closings.

The formal hearing on the application appeal of Dustin Rallis was called to order by Chairman Anderson at 3:50 p.m. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, Dustin Rallis and Dean Rallis. The hearing closed at 4:18 p.m.

The formal hearing on the application appeal of Jason Overstreet was called to order by Chairman Anderson at 4:35 p.m. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling and Jason Overstreet. The hearing closed at 4:52 p.m.

Motion by Berven, second by Larkin, to enter into executive session at 4:53 p.m. Motion carried.

Motion by Berven, second by Darnall, to come out of executive session at 4:57 p.m. Motion carried.

Motion by Berven, second by Darnall, to grant a real estate salesperson's license to Dustin Rallis as requested. Motion carried.

Motion by Darnall, second by Larkin, to grant a real estate salesperson's license to Jason Overstreet as requested. Motion carried.

The meeting recessed at 5:10 p.m. and reconvened at 8:35 a.m. on October 27, 2000.

Motion by Darnall, second by Larkin, to enter into executive session at 8:40 a.m. Motion carried.

Motion by Berven, second by Darnall, to come out of executive session at 8:50 a.m. Motion carried.

Motion by Berven, second by Larkin, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Bill Hegg and Jon Johnson for alleged violation of SDCL 36-21A-71(9), 36-21A-71(22), and 36-21A-71(130) on complaint #2000-029, Pendegraft vs. Hegg, REALTORS/Johnson with the following conditions: (1) defendants each pay a penalty of \$100 and (2) defendant Johnson complete 6 hours of education in agency law and 6 hours of education in real estate contracts. The education is in addition to education required for license renewal. If the above stipulation is agreed to the complaint will be dismissed and if not agreed to the complaint will be addressed at the next commission meeting. Motion carried.

Motion by Berven, second by Darnall, to enter into executive session at 8:55 a.m. to review complaints. Motion carried.

Motion by Larkin, second by Berven, to come out of executive session at 9:20 a.m. Motion carried.

Motion by Berven, second by Darnall, to hold a formal hearing on complaint #2000-026, White vs. Action Buyers Resource/Voorhees & Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Chace. Motion carried with Larkin recusing himself from participation in the complaint.

Motion by Darnall, second by Larkin, to dismiss complaint #2001-001, Houk vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Carlyle. Motion carried.

The commission reviewed proposed legislation. Motion by Berven, second by Darnall, to approve legislation to increase the cap on license fees and the legislation to remove the cap on errors and omissions insurance as submitted, and to recommend to the Association of REALTORS that they introduce legislation relating to the formation of salesperson corporations. Motion carried. Motion by Berven, second by Darnall to approve the legislation on repeal of the provision for a two-part licensing exam as submitted. Motion carried.

The commission received copies of proposed rules to be reviewed for the next meeting.

The executive director informed the commission of the National Land Council Meeting to be held in Key Largo, FL November 15-17, 2000. Motion by Larkin, second by Berven, to allow the executive director to attend the National Land Council Meeting.

Motion carried.

The executive director informed the commission that a forms committee meeting would be held on November 6, 2000 in Pierre. Motion by Berven, second by Darnall, to authorize the executive director to proceed with the forms committee meeting with the commission to pay expenses for those on the committee. Motion carried.

The executive director informed the commission that he has been asked to speak in North Dakota regarding mandatory E & O insurance, with expenses to be paid by the North Dakota Real Estate Commission.

The commission reviewed requests for waiver of continuing education. Motion by Darnall, second by Berven, to approve the requests of Sarah Pastian and Jorge Vicuna for waiver of continuing education. Motion carried.

The next regular meeting of the commission will be held December 10, 11 & 12, 2000 in Watertown.

There being no further business, Larkin moved, seconded by Darnall, to adjourn at 11:35 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on October 26 & 27, 2000.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**AUGUST 28 & 29, 2000**

**2<sup>ND</sup> FLOOR CONFERENCE ROOM**

**118 W CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened its meeting at 1:05 p.m. on August 28, 2000 in the 2<sup>nd</sup> Floor Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Loren Anderson, and commission members Jim Berven, Lynn Darnall, Charles Larkin and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Berven, second by Wittrig, to approve the minutes of the June 19 & 20, 2000 meeting. Motion carried.

Motion by Berven, second by Larkin, to accept the financial reports for June and July 2000. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law & Order and proposed decision of Hearing Officer Hillary Brady on Sandra Schatz. Motion by Berven, second by Darnall, to adopt the Findings of Fact, Conclusions of Law, and proposed decision of Hearing Officer Hillary Brady with an amendment to add the maximum penalty of \$2,500. Discussion on the motion was deferred at this time.

Motion by Darnall, second by Wittrig, to enter into executive session at 1:30 p.m. Motion carried.

The informal consultation on the complaint #2000-024, Beldin vs. Madison Realty, Inc./Moothart was called to order by Chairman Anderson at 1:35 p.m. Present for the consultation in addition to the chairman were commission members Jim Berven, Lynn Darnall, Charles Larkin and Judy Wittrig. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, respondent Marilyn Moothart and broker Jeff Lechner. Complainant Russell Beldin appeared telephonically. The consultation concluded at 2:32 p.m.

Motion by Berven, second by Larkin, to come out of executive session at 2:40 p.m. Motion carried.

Motion by Darnall, second by Wittrig, to dismiss complaint #2000-024, Beldin vs. Madison Realty, Inc./Moothart. Motion carried.

Motion by Darnall, second by Berven, to enter into executive session at 2:55 p.m. Motion carried.

The informal consultation on the complaint #2000-021, Howard vs. Prairie Winds Realty/Raymond & Lynne Duling was called to order by Chairman Anderson at 3:00 p.m. Present for the consultation in addition to the chairman were commission members Jim

Berven, Lynn Darnall, Charles Larkin and Judy Wittrig. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainants Dan & Julie Howard and respondent Raymond "Joe" Duling. The consultation concluded at 3:55 p.m.

Motion by Berven, second by Larkin, to come out of executive session at 4:27 p.m. Motion carried.

Motion by Berven, second by Larkin, to offer the following settlement to Raymond and Lynne Duling: (1) defendants pay for the entire costs of sewer installation per county/city code for the complainants to be completed no later than November 1, 2000; (2) that each licensee complete 12 hours of education in agency law, license law and contracts with these completed within 12 months; (3) defendants notify the executive director of their decision by no later than 5:00 p.m. on September 5, 2000; and (4) if they do not agree to the settlement the commission will move to a formal hearing. Motion carried.

Discussion was held on the letter of request from Patrick Foley. Motion by Berven, second by Darnall, to deny the request of Patrick Foley with his license suspended until such time he completes the required education per the Supreme Court ruling. Motion carried.

The Commission reviewed a letter received from Frontier Insurance. Motion by Larkin, second by Berven, to continue with Frontier Insurance as the E & O provider as long as they stay within the commission guidelines. Motion carried.

The Commission reviewed the proposed ADA Policy. Motion by Wittrig, second by Darnall, to accept the proposed ADA Policy. Motion carried.

The meeting recessed at 5:10 p.m. and reconvened at 8:30 a.m. on August 29, 2000.

Discussion was held on the previous motion regarding Sandra Schatz. Motion by Berven, second by Wittrig, to amend the motion to include that Sandra Schatz reimburse the commission in the amount of \$4,291.42 for expenses incurred by Richard Grebner. Amendment carried and motion carried.

Discussion was held on proposed legislation.

David Volk, Jeannette Schipper and Wendy Kloepfner joined the meeting at 9:00 a.m. to discuss local bank accounts. Dave, Jeannette and Wendy left the meeting at 9:40 a.m. Following discussion, the commission tabled any decision regarding the commission's local bank account until the October meeting.

The Commission continued discussion on proposed legislation. Motion by Berven, second by Wittrig, to proceed with action on proposed legislation as presented with a correction on Action Issue # 1 regarding gender specific language and to propose an increase on the cap for E & O fees to \$200. Motion carried.

The executive director informed the Commission about the Annual ARELLO Conference to be held in Salt Lake City, Utah October 14-17, 2000. Motion by Berven, second by Darnall, to authorize the executive director to request for the attendance of four at the annual conference. Motion carried.

Discussion was held on electronic transactions.

Discussion was held regarding the Commission continuing to sponsor the educational caravans. The executive director was instructed to compile the cost the Commission incurs in conducting the caravan.

Discussion was held regarding auctioneers completing closing statements. The Commission was agreed that a policy should be developed to permit auctioneers to complete closing statements.

The executive director informed the Commission that Dee is in the process of making all our forms tabbed forms so that they can be completed on a computer and suggested that the forms be reviewed at least once a year.

Motion by Wittrig, second by Darnall, to enter into executive session at 11:35 a.m. to review complaints.

Motion by Wittrig, second by Darnall, to come out of executive session at 12:30 p.m. Motion carried.

Motion by Darnall, second by Wittrig, to table complaint #2000-026, White vs. Action Buyers Resource/Voorhees & Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Chace until further investigation is completed. Motion carried with Commission Member Larkin recusing himself from participation in the complaint.

Motion by Darnall, second by Larkin, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Jerry Peterson for alleged violation of SDCL 36-21A-130, 36-21A-147 and ARSD 20:69:16:01 on complaint #2000-028, Schuelke vs. Peterson Realty/Jerry Peterson and that he pay a penalty of \$50 for each alleged violation. If the offered agreement is not accepted the commission may conduct further proceedings. Motion carried.

Motion by Berven, second by Larkin, to hold an informal consultation on complaint #2000-029, Pendegraft vs. Hegg, REALTORS/Johnson. Motion carried.

Motion by Wittrig, second by Darnall, to file a new complaint against Wayne Mundt in the complaint #1999-002, Halstead vs. Johnson Joy Real Estate/Mundt and to conduct a formal hearing. Motion carried.

Motion by Berven, second by Darnall, to deny the request of Rena Atchison on complaint

#2000-014, Sterling/Crecelius vs. Prudential Kahler REALTORS/David Kahler. Motion carried.

Discussion was held on the nonpayment of fees on the E & O complaints.

The next regular meeting of the Commission will be held October 26 & 27, 2000 in Pierre.

There being no further business, Berven moved, seconded by Larkin, to adjourn at 12:40 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on August 28 & 29, 2000.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**JUNE 19 & 20, 2000**

**2<sup>ND</sup> FLOOR CONFERENCE ROOM**

**COMMERCE BUILDING**

**118 WEST CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened its meeting at 1:00 p.m. on June 19, 2000 in the 2<sup>nd</sup> Floor Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Lynn Darnall, Charles Larkin and Judy Wittrig. Judy Wittrig was not present for the meeting on June 20, 2000. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Larkin, second by Anderson, to approve the minutes of the April 3 & 4, 2000 meeting. Motion carried.

Motion by Larkin, second by Darnall, to accept the financial reports for March, April and May 2000. Motion carried.

The commission reviewed the invoice from Richard Grebner for acting as receiver for Schatz Rental Management. Motion by Larkin, second by Wittrig, to pay Richard Grebner the amount of the invoice and if Mr. Grebner should get financial remuneration



that he reimburse the commission to the amount the commission paid him. Motion carried.

Motion by Larkin, second by Wittrig, that if a judgement is filed against Sandy Schatz that the commission be reimbursed through the Recovery Fund for the expenses. Action deferred pending discussion.

Chairman Berven at 1:30 p.m. convened the formal hearing on the complaint #2000-027, SDREC vs. Dave Anderson. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Cheri McComsey Wittler, defendant Dave Anderson and witness Dee Jones. Chairman Berven declared the hearing closed at 3:27 p.m.

Hearing Officer Hillary Brady at 3:50 p.m. convened the formal hearing on the complaint #2000-018, SDREC vs. Schatz Rental Management/Schatz. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Cheri McComsey Wittler and witness Scott Marron. Rory King, attorney for the defendant, appeared telephonically. Defendant Sandra Schatz did not appear for the hearing. Hearing Officer Brady declared the hearing closed at 4:20 p.m.

Following discussion, previous motion by Larkin for reimbursement to the commission through the Recovery Fund was defeated.

Discussion was held on the formal hearing of Dave Anderson. Motion by Wittrig, second by Darnall, to find for the plaintiff. Chairman Berven overruled legal counsel Jim Robbennolt's objection to testimony of the respondent, which motion had been taken under advisement. Motion carried.

Commission member Wittrig left the meeting at 5:00 p.m.

Motion by Larkin, second by Anderson, to enter into executive session at 5:05 p.m. to review complaints. Motion carried.

Motion by Larkin, second by Anderson, to come out of executive session at 5:35 p.m. Motion carried.

Motion by Larkin, second by Anderson, to dismiss complaint #2000-020, Ruelle vs. Best Choice Better Homes & Gardens/Brooks/Kneip & Century 21 Hastings REALTORS/Hogen. Motion carried with Darnall recusing herself from participation in the complaint.

Motion by Darnall, second by Anderson, to hold an informal consultation on complaint #2000-021, Howard vs. Prairie Winds Realty/Raymond & Lynne Duling and that the responsible broker is notified to attend the consultation. Motion carried.

Motion by Larkin, second by Darnall, to dismiss complaint #2000-022, Miksovsky vs. Coldwell Banker GKR & Associates/Itterman. Motion carried.

Motion by Darnall, second by Larkin, to dismiss complaint #2000-023, Chartrand vs. Prudential Kahler, REALTORS/Pearson. Motion carried.

Motion by Larkin, second by Anderson, to hold an informal consultation on complaint #2000-024, Beldin vs. Madison Realty, Inc./Moothart and that the responsible broker is notified to attend the consultation. Motion carried.

Motion by Larkin, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Calvin Chambers for alleged violation of SDCL 36-21A-130, 36-21A-147 and ARSD 20:69:16:01 on complaint #2000-025, Anderson vs. McDowell-Rogers REALTORS/Chambers and that he pay a penalty of \$50 for each alleged violation. If the offered agreement is not accepted the commission may conduct further proceedings. Motion carried.

The commission reviewed reports on the number of new licensees for Fiscal Year 2000.

The commission reviewed the proposed budget for Fiscal Year 2001. Motion by Anderson, second by Darnall, to approve the budget for Fiscal Year 2001. Motion carried.

The commission reviewed the salesperson's application of Dave Nelson. Motion by Larkin, second by Anderson, to reaffirm the action of the executive director. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law & Order and the proposed decision of Hearing Officer Hillary Brady on Robert Penfield, Thomas Holzer, Larry Adams and Douglas Viereck. Motion by Larkin, second by Anderson, to adopt the Findings of Fact, Conclusions of Law, and proposed decision of Hearing Officer Hillary Brady in each case. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law & Order and proposed decision of Hearing Officer Hillary Brady on David Rowe. Motion by Larkin, second by Darnall, to adopt the Findings of Fact, Conclusions of Law, and proposed decision of Hearing Officer Hillary Brady with an amendment to drop the court reporter fees. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law & Order and proposed decision of Hearing Officer Hillary Brady on Ronald Baker. Motion by Larkin, second by Anderson, to adopt the Findings of Fact, Conclusions of Law, and proposed decision of Hearing Officer Hillary Brady with an amendment to drop the court reporter fees. Motion carried.

The commission reviewed the Findings of Fact, Conclusions of Law & Order and proposed decision of Hearing Officer Hillary Brady on David Eliason. Motion by Anderson, second by Darnall, to adopt the Findings of Fact, Conclusions of Law, and proposed decision of Hearing Officer Hillary Brady with the proposed continuing education to include 6 hours each in agency law, license law and property management. Motion carried.

The executive director informed the commission that he had been in contact with Frontier Insurance and they are working to resolve the issue with E & O insurance. If this has not been resolved by the August meeting the commission will issue a proposal for bids.

The executive director informed the commission that an advanced investigator seminar will be held July 19-21,2000 in Durham, North Carolina. Motion by Darnall, second by Anderson, to submit a travel request for Scott Marron, auditor/investigator to attend the training. Motion carried.

The meeting recessed at 6:30 p.m. and reconvened at 8:40 a.m. on June 20, 2000.

Discussion was held on the licensing of corporations used strictly for payment of commissions to the licensees. The executive director was instructed to draft legislation for the exemption of licensing of corporations used solely for commissions.

The public rules hearing was called to order by hearing officer Jim Robbenolt at 9:00 a.m. The hearing closed at 10:30 a.m.

Discussion was held on the licensing by reciprocity licensees from countries outside the United States. Motion by Larkin, second by Anderson, that based on legal counsel, it appears the present rules allow for the licensing of individuals from other provinces and countries by reciprocity and authorized the Executive Director to pursue such agreements. Motion carried.

The executive director informed the commission that the ND/SD REALTORS Convention is September 13-15,2000 in Minot, ND. Motion by Darnall, second by Larkin, to submit a request for 4 commission members to attend the convention. Motion carried.

This being the time and place to elect new officers for the Real Estate Commission, Chairman Berven opened nominations. Berven nominated Anderson for Chairman and Larkin for Vice-Chairman and moved that nominations cease. Darnall seconded. Motion carried with Anderson and Larkin elected.

The executive director informed the commission that Norma Schilling has filed an appeal with the Career Service Board on a request for a reclassification with the hearing date set for July 26, 2000. Motion by Berven, second by Darnall, to approve the attendance of Loren Anderson at the hearing to testify on behalf of Norma. Motion carried.

The next regular meeting of the Commission will be held August 28 & 29, 2000 in Pierre.

There being no further business, Berven moved, seconded by Darnall, to adjourn at 11:15 a.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on June 19 & 20, 2000.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**APRIL 3 & 4, 2000**

**2<sup>ND</sup> FLOOR CONFERENCE ROOM**

**COMMERCE BUILDING**

**118 WEST CAPITOL**

**PIERRE, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened its meeting at 1:00 p.m. on April 3, 2000 in the 2<sup>nd</sup> Floor Conference Room of the Commerce Building, Pierre, South Dakota. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Lynn Darnall, Charles Larkin and Judy Wittrig. Judy Wittrig was not present for the meeting on April 4, 2000. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Anderson, second by Larkin, to approve the minutes of the February 28 & 29, 2000 meeting. Motion carried.

Motion by Anderson, second by Wittrig, to accept the financial report for February 2000. Motion carried.

Motion by Larkin, second by Anderson, to grant a continuance of the hearing in the complaint #2000-018, SDREC vs. Schatz Rental Management/Schatz to the June 2000 meeting at the request of the defendant. Motion carried.

Chairman Berven informed the commission that he had received an invitation to join the Montana Board of Realty Regulation meeting in early May to discuss E & O insurance. The Montana Board will pay all expenses. Motion by Wittrig, second by Anderson, to approve the attendance of Chairman Berven at the meeting. Motion carried.

Discussion was held in regard to the present E & O provider. The executive director was instructed to check with the Division of Insurance on the current E & O provider and report to the Commission at the June meeting.

Motion by Anderson, second by Wittrig, to propose a rule to change the language of present rules to allow the Real Estate Commission to approve an E & O company according to specs and financial stability. Motion carried.

Motion by Larkin, second by Wittrig, to enter into executive session at 2:20 p.m. to review complaints. Motion carried.

Motion by Wittrig, second by Anderson, to come out of executive session at 2:50 p.m. Motion carried.

Motion by Wittrig, second by Anderson, to dismiss complaint #2000-017, Mathison vs. Pierre One Real Estate/Neilan-Hipple. Motion carried.

Motion by Anderson, second by Darnall, to enter into executive session at 2:55 p.m. Motion carried.

Motion by Anderson, second by Darnall, to come out of executive session at 3:00 p.m. Motion carried.

Motion by Darnall, second by Wittrig, to deny the request of Peggy Haugan. Motion carried.

The executive director informed the Commission that he denied a distance education course being offered by Dave Anderson. Motion by Wittrig, second by Darnall, to hold a formal hearing with Dave Anderson at the June meeting and have the executive director and legal counsel proceed with the necessary process for the discontinuation of the course offering until after the hearing. Motion carried.

The Commission reviewed a request for limited reciprocity with the Ohio Division of Real Estate. The request was tabled until the June meeting to allow Ohio time to respond to a letter sent by the executive director with proposed changes to the reciprocal agreement.

The executive director informed the Commission that he will be drafting proposed rules regarding E & O insurance and residential rental agents.

Discussion was held on the ARELLO Central District Conference in Lansing, Michigan July 9-11, 2000. Motion by Wittrig, second by Larkin, to request the attendance of the executive director and one commission member at the meeting. Motion carried.

Commission member Judy Wittrig left the meeting at 3:55 p.m.

Hearing Officer Hillary Brady at 4:00 p.m. convened the formal hearing on the complaint #2000-016, SDREC vs. E & O

complaints. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lori Grode, and defendant Ron Baker. Defendants Larry Adams, Thomas Holzer, Robert Penfield and Douglas Viereck did not appear. Hearing Officer Brady declared the hearing closed at 4:25 p.m.

Hearing Officer Hillary Brady at 4:40 p.m. convened the formal hearing on the application appeal of Larry Fuss. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Lori Grode, and Larry Fuss. Hearing Officer Brady declared the hearing closed at 4:48 p.m.

Motion by Darnall, second by Anderson, to enter into executive session at 4:50 p.m. Motion carried.

Motion by Larkin, second by Anderson, to come out of executive session at 5:10 p.m. Motion carried.

Motion by Darnall, second by Anderson, to grant a license to Larry Fuss with the understanding that he is to send quarterly reports on his real estate activities for a year. Motion carried.

The meeting recessed at 5:20 p.m. and reconvened at 8:30 a.m. on April 4, 2000.

Hearing Officer Hillary Brady at 8:35 a.m. convened the formal hearing on the complaint #2000-016, SDREC vs. E & O complaints – David Rowe. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Cheri McComsey Wittler, and defendant David Rowe. Hearing Officer Brady declared the hearing closed at 8:40 a.m.

Motion by Anderson, second by Larkin, to enter into executive session at 8:45 a.m. Motion carried.

Motion by Anderson, second by Darnall, to come out of executive session at 8:55 a.m. Motion carried.

Motion by Anderson, second by Darnall, to dismiss complaint #2000-014, Sterling/Crecelius vs. Prudential Kahler REALTORS/David Kahler. Motion carried.

Hearing Officer Hillary Brady at 9:05 a.m. convened the formal hearing on the complaint #2000-008, SDREC vs. Eliason Management/Eliason. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, court reporter Cheri McComsey Wittler, defendant David Eliason and witness Dave Wehde. Hearing Officer Brady declared the hearing closed at 10:47 a.m.

Craig Wilson appeared before the commission at 10:55 a.m.

Motion by Anderson, second by Larkin, to enter into executive session at 11:00 a.m. Motion carried.

Motion by Larkin, second by Anderson, to come out of executive session at 11:33 a.m. Motion carried.

Motion by Larkin, second by Darnall, to give the executive director the authority to approve the application of Craig Wilson provided no further information is found. Motion carried.

The Commission reviewed a list of proposed citations. Motion by Darnall, second by Anderson, to implement the use of the proposed citations effective July 1, 2000 with notice of these citations appearing in the June 2000 newsletter and give the executive director the authority to file a complaint and stipulation. Motion carried.

Discussion was held on closing statements.

The next regular meeting of the commission will be held June 19 & 20, 2000 in Pierre.

There being no further business, Anderson moved, seconded by Larkin, to adjourn at 12:17 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on April 3 & 4, 2000.

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**FEBRUARY 28 & 29, 2000**

**CONFERENCE ROOM 2**

**RAMKOTA INN**

**2400 N LOUISE AVE**

**SIOUX FALLS, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened its meeting at 8:30 a.m. on February 28, 2000 in Conference Room 2 of the Ramkota Inn, Sioux Falls, South Dakota. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Lynn Darnall, Charles Larkin and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Larkin, second by Wittrig, to approve the minutes of the January 26, 27 & 28, 2000 meeting. Motion carried.

Motion by Anderson, second by Darnall, to accept the financial report for January 2000. Motion carried.

Motion by Larkin, second by Wittrig, to enter into executive session at 9:00 a.m. to review complaints. Motion carried.

Motion by Wittrig, second by Larkin, to come out of executive session at 9:17 a.m. Motion carried.

Motion by Larkin, second by Anderson, to dismiss complaint #2000-011, Sandbulte vs. Prudential Chell REALTORS/Murphy without prejudice on Michael Murphy and Dale Chell and have the executive director write a letter of admonishment to Dale Chell. Motion carried.

Motion by Larkin, second by Darnall, to move to a formal hearing on the licensees not in compliance on E & O insurance. Motion carried.

The commission instructed the executive director to call Dale Chell and invite him to meet with the commission on Tuesday morning, February 29, 2000.

Legal counsel informed the commission on legal actions involving Sandy Schatz, a property manager in Aberdeen, lawsuits that had been filed against two Colorado brokers advertising property in South Dakota and updated the commission on the Ali Salhi complaint.

Discussion was held on long term financial projections. The executive director was instructed to compile a list of violations for possible standard citations issued to real estate licensees. Various means to cuts expenditures was also discussed.

The meeting recessed at 12:00 noon for lunch and reconvened at 1:15 p.m.

Hearing Officer Leo Disburg at 1:30 p.m. convened the formal hearing on the complaint #2000-008, SDREC vs. Eliason Management/Eliason. Present for the hearing, in addition to the members of the commission, were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling court reporter Jill Connelly, defendant Dave Eliason and witness Dave Wehde. Defendant Eliason presented a letter requesting a continuance.

Motion by Wittrig, second by Darnall, to enter into executive session at 1:45 p.m. Motion carried.

Motion by Larkin, second by Darnall, to come out of executive session at 1:55 p.m. Motion carried.

Motion by Larkin, second by Darnall, to continue the hearing to April 3 or 4, 2000. Motion carried.

Discussion continued on long term financial projections.

Motion by Darnall, second by Wittrig, to increase the registration fee for the educational caravans to \$50 starting with the Fall

2000 caravan. Darnall amended motion, Wittrig seconded, to charge a \$10 cancellation fee. Amendment carried and motion carried.

Motion by Wittrig, second by Larkin, to file complaints against licensees failing to renew E & O insurance, with a stipulated \$50 late fee, and to have the executive director provide a proposed schedule for additional charges. Motion carried.

Motion by Larkin, second by Anderson, to have the executive director draft legislation to charge a \$10 administrative fee for the processing of E & O insurance. Motion carried.

Motion by Darnall, second by Larkin, authorizing staff to provide a list of active licensees on diskette for \$250. Motion carried.

Motion by Darnall, second by Anderson, to charge a \$10 subscription fee for the newsletter to nonlicensees. Motion carried.

Motion by Darnall, second by Wittrig, to file a complaint for failure to notify the commission of a change of address or association, for running a blind ad, or for failure to notify the commission of a lawsuit, all of which are violations of license law, and issue a \$50 citation for each violation effective July 1, 2000. Motion carried.

Motion by Darnall, second by Wittrig, that the next time license law books are printed to only send one book to each office with extras printed and sent to licensees upon request. Motion carried.

The meeting recessed at 5:00 p.m. and reconvened at 8:30 a.m. on February 29, 2000.

Motion by Anderson, second by Larkin, to dismiss complaint #2000-009, Sagness vs. Coldwell Banker GKR & Associates/Ford/Tim Johnson. Motion carried.

The executive director informed the commission of the ARELLO Board of Directors meeting in Wilmington, North Carolina April 27-29, 2000. Motion by Darnall, second by Anderson, to request the attendance of the executive director and one commission member at the meeting. Motion carried.

Motion by Larkin, second by Wittrig, to enter into executive session at 8:55 p.m. Motion carried.

Tim and Janey Johnson, and Ilith Ford appeared before the commission at 9:00 a.m. and left at 9:45 a.m.

Dale Chell appeared before the commission at 10:00 a.m. and left at 10:15 a.m.

The informal consultation on the complaint #2000-010, Krause vs. Haugan-Nelson Realty/Endries was called to order by Chairman Berven at 10:40 a.m. Present for the consultation in addition to the chairman were commission members Loren Anderson, Lynn Darnall and Judy Wittrig. Commission member Larkin recused himself from the consultation. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad, Secretary Norma Schilling, complainants DuWayne and Maxine Krause, respondent Jim Endries and witness Darlene Gilman. The consultation concluded at 11:50 a.m.

Motion by Anderson, second by Wittrig, to come out of executive session at 12:20 p.m. Motion carried.

Motion by Wittrig, second by Darnall, to make a policy statement that anytime a sales agent or broker associate is named in a complaint where a hearing is held the responsible broker is required to appear at the hearing. Motion carried.

Motion by Anderson, second by Darnall, to offer to enter into a Stipulation and Assurance of Voluntary compliance with Jim Endres and Peggy Haugan for alleged violation of SDCL 36-21A-71(3), (4), (25), (31), 36-21A-79 and 36-21A-130, with the following conditions: (1) Jim Endries pay a penalty of \$1,000; (2) Jim Endries complete 6 hours of agency law and 6 hours of contracts in addition to the 24 hours required for license renewal to be completed by 1/1/2001; (3) Peggy Haugan pay a penalty of \$1,000; (4) licensees pay costs of \$292.50; and (5) if these terms are not agreed to within 5 days of receipt, the commission will move to a formal hearing. Motion carried.

The next regular meeting of the commission will be held April 3 & 4, 2000 in Pierre.

There being no further business, Anderson moved, seconded by Darnall, to adjourn at 12:25 p.m. Motion carried.

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on February 28 & 29, 2000.

G. Lyngstad, Executive Director

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**SOUTH DAKOTA REAL ESTATE COMMISSION**

**JANUARY 26, 27 & 28, 2000**

**BEAR BUTTE ROOM**

**RAMKOTA HOTEL & CONFERENCE CENTER**

**2111 LACROSSE ST**

**RAPID CITY, SOUTH DAKOTA**

The South Dakota Real Estate Commission convened its meeting at 8:30 a.m. on January 26, 2000 in the Bear Butte Room of the Ramkota Hotel & Conference Center, Rapid City, South Dakota. Present for the meeting were Chairman Jim Berven and commission members Loren Anderson, Lynn Darnall, Charles Larkin and Judy Wittrig. Also present were executive director Larry Lyngstad, legal counsel Jim Robbennolt and secretary Norma Schilling.

Motion by Larkin, second by Anderson, to approve the minutes of the December 13 & 14, 1999 meeting with the addition that commission member Charles Larkin had recused himself from participation in the complaint #2000-003, SDREC vs. Linn Real Estate/Rita Linn. Motion carried.

Motion by Darnall, second by Wittrig, to accept the financial report for December 1999. Motion carried.

The commission reviewed the proposed decision of Administrative Hearing Examiner Leo Disburg regarding Rita Linn. Motion by Darnall, second by Wittrig, to accept the proposed decision of Administrative Hearing Examiner Leo Disburg. Darnall amended motion, seconded by Wittrig, to include that Rita Linn be required to complete 6 hours in agency law and 6 hours in license law by December 31, 2000. These hours are in addition to the 24 hours of required continuing education. Amendment carried and motion carried with commission member Larkin recusing himself from participation.

The commission reviewed the proposed decision of Administrative Hearing Examiner Leo Disburg regarding Paul Gylling. Motion by Anderson, second by Darnall, to adopt the proposed decision of Administrative Hearing Examiner Disburg. Roll call vote was held with Wittrig – Pass, Darnall – Yes, Anderson – Yes, Larkin – No. Motion carried.

Motion by Wittrig, second by Anderson, to enter into executive session at 10:40 a.m. to review complaints. Motion carried.

Motion by Larkin, second by Anderson, to come out of executive session at 11:15 a.m. Motion carried.

Motion by Wittrig, second by Larkin, to dismiss complaint #2000-002, SDREC vs. Cody Smith without prejudice. Motion carried.

Motion by Larkin, second by Wittrig, to move to a formal hearing on complaint #2000-011, Sandbulte vs. Prudential Chell REALTORS/Murphy and subpoena the buyers, sellers, Mike Murphy, Dale Chell, Celia Hogan and Paul Anderson. Motion carried.

Motion by Darnall, second by Anderson, to dismiss complaint #2000-012, Speed vs. Coldwell Banker Lewis-Kirkeby-Hall Real Estate/Pitts. Motion carried.

Motion by Wittrig, second by Larkin, to have the executive director file a complaint on Ali Salhi. Motion carried.

The executive director informed the commission that HB1092 which would require home inspectors to be licensed had passed the House Commerce Committee.

The meeting recessed for lunch at 11:45 a.m. and reconvened at 1:00 p.m.

Discussion continued on HB1092. Following discussion, Darnall moved, seconded by Anderson, to support HB1092. Motion

carried with a vote of 4-1.

Motion by Larkin, second by Anderson, to enter into executive session at 1:30 p.m. Motion carried.

The informal consultation on the complaint #2000-001, Legge vs. Bradeen Real Estate & Auctions & The Real Estate Center/Bradeen/Kistler was called to order by Chairman Berven at 1:35 p.m. Present for the consultation in addition to the chairman were commission members Loren Anderson, Lynn Darnall, Charles Larkin and Judy Wittrig. Also present were legal counsel Jim Robbennolt, executive director Larry Lyngstad, secretary Norma Schilling, complainants Kelly & Robyn Legge and Loren & Debra Legge, respondents Donald Kistler and Ron & Ramona Bradeen. The consultation concluded at 4:30 p.m.

Motion by Larkin, second by Anderson, to come out of executive session at 5:07 p.m. Motion carried.

Motion by Wittrig, second by Anderson, to offer to enter into a Stipulation and Assurance of Voluntary Compliance with Ron & Ramona Bradeen and Donald Kistler for alleged violation of SDCL 36-21A-73, 36-21A-132, 36-21A-71(22), (30), 36-21A-80, 36-21A-130 & 36-21A-81 to the following: (1) that the licensees provide a detailed list of all showings of the subject property; (2) that an immediate termination of the listing be given, with no cause of action other than on showings; (3) that the licensees pay costs of the hearing within 30 days of the service; (4) the licensees complete 6 hours in agency law and 6 hours in contract law in addition to the 24 hours required for license renewal; and (5) if these terms are not agreed to within 5 days of receipt, then the commission will move to a formal hearing. Motion carried.

Legal counsel Jim Robbennolt and secretary Norma Schilling left the meeting at 6:10 p.m.

Following discussion, Anderson moved and Wittrig seconded, to authorize commission representation at the REALTOR® legislative function. Motion carried.

Motion by Wittrig, second by Darnall, to approve the request for continuing education waiver for J. L. Peters. Motion carried.

The commission reviewed financial projections and discussed various cost saving measures. The commission requested that staff prepare various options to be reviewed at the next regular meeting of the commission.

There being no further business, the meeting was adjourned at 6:30 p.m.

Larry G. Lyngstad, Executive Director

I, Larry G. Lyngstad, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on January 26, 2000.