

SOUTH DAKOTA REAL ESTATE COMMISSION
KNEIP BUILDING
MAY 20, 2014
700 GOVERNORS DR
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 8:00 a.m. on May 20, 2014. Present for the meeting were Chairman Mark Wahlstrom and commission members David Bonde, Matt Krogman, Paula Lewis and Doug Nelson. Also present were executive director Melissa Miller, licensing program administrator Norma Schilling and Department of Labor and Regulation legal counsel Aaron Arnold.

Eric Schulte, attorney for Johnathan Sweets, and Steve Landon, attorney for Joan Cota, were present for the meeting at 8:00 a.m. on their request for reconsideration in the disciplinary action of Johnathan Sweets and Joan Cota.

Legal counsel Lindsey Riter-Rapp was present for the meeting at 8:00 a.m.

Motion by Nelson, seconded by Bonde, to approve the agenda as presented. Motion carried.

Motion by Nelson, seconded by Krogman, to approve the minutes of the March 13, 2014 and April 21, 2014 meetings. Motion carried.

Motion by Bonde, seconded by Nelson, to approve the financial reports for March & April 2014. Motion carried.

Attorney Steve Landon spoke on behalf of his client Joan Cota.

Attorney Eric Schulte spoke on behalf of his client Johnathan Sweets.

Mr. Landon, Mr. Schulte and Ms. Riter-Rapp left the meeting at 8:10 a.m.

Motion by Nelson, seconded by Bonde, to enter into executive session at 8:10 a.m. pursuant to SDCL 1-25-2(3). Motion carried.

The Commission reconvened to regular session at 10:34 a.m.

In the matter of Jonathan Sweets and Joan Cota, Nelson moved, seconded by Krogman, to amend the following:

Conclusions of Law III and IV, which were issued by the Office of Hearing Examiners and adopted in the Order, will be amended by removing "SDCL 36-21A-7" and adding "SDCL 36-21A-71" to correct a typographical error;

ORDERED that Jonathan Sweets' license, License No.14928, is hereby suspended for a period of one year beginning on the effective date of this Amended Order, with the one year suspension being held in abeyance for a period of two years so long as the following conditions are complied with:

1. Jonathan Sweets shall comply with all laws and regulations relating to his profession under SDCL chapter 36-21A and ARSD article 20:69 for a period of 2 years beginning on the effective date of this Amended Order;
2. Jonathan Sweets shall pay a monetary penalty in the amount of \$2,500.00 to the Commission by December 31, 2014;
3. Jonathan Sweets shall pay for, attend, and successfully complete the following Commission approved education courses in an **in-classroom setting**:
 - a. Agency – 6 hours;
 - b. Contracts – 6 hours; and
 - c. Ethics – 6 hours.

Mr. Sweets shall submit written proof of completing the required education by March 31, 2015. For purposes of this Amended Order, “in-classroom setting” means a class offered in the traditional classroom setting with the instructor and a body of students present in the same room. The courses may not be distance education offerings. The required course work will not count toward Mr. Sweet’s continuing education requirement for maintaining his license and cannot be completed at the South Dakota School of Real Estate; and

4. Pursuant to SDCL 1-26-29.1, Jonathan Sweets shall reimburse the Commission for its costs for the administrative hearing in the amount of \$3,830.50 joint and several with Joan Cota by December 31, 2015. The costs are as follows:
 - a. Court reporting services for the hearing, including transcript costs: \$2,613.15;
 - b. Attorney travel expenses for deposition and witness questioning: \$713.50; and
 - c. Court reporting costs for the deposition of handwriting expert: \$503.85.

ORDERED that Joan Cota shall comply with the following conditions:

1. Joan Cota shall pay a monetary penalty in the amount of \$2,500.00 to the Commission by December 31, 2014;
2. Joan Cota shall pay for, attend and successfully complete the Commission approved 15 hour Responsible Broker course in an **in-classroom setting**. Ms. Cota shall submit written proof of completing the required education by December 31, 2014. For purposes of this Amended Order, “in-classroom setting” means a class offered in the traditional classroom setting with the instructor and a body of students present in the same room. The courses may not be distance education offerings. The required course work will not count toward Ms. Cota’s continuing education requirement for maintaining her license and cannot be completed at the South Dakota School of Real Estate;
3. Joan Cota shall pay for, attend, and successfully complete the following Commission approved education courses in an **in-classroom setting**:
 - a. Contracts – 6 hours; and
 - b. Agency – 6 hours.

Ms. Cota shall submit written proof of completing the required education by March 31, 2015. The required course work will not count toward Ms. Cota’s continuing education requirement for maintaining her license and cannot be completed at the South Dakota School of Real Estate; and

5. Pursuant to SDCL 1-26-29.1, Joan Cota shall reimburse the Commission for its costs for the administrative hearing in the amount of \$3,830.50 joint and several with Jonathan Sweets by December 31, 2015. The costs are as follows:
 - a. Court reporting services for the hearing, including transcript costs: \$2,613.15;
 - b. Attorney travel expenses for deposition and witness questioning: \$713.50; and
 - c. Court reporting costs for the deposition of handwriting expert: \$503.85.

ORDERED that if Joan Cota fails to comply with any requirement of her listed within this Amended Order by the given deadline, then Ms. Cota's personal license, License No. 3578, shall be immediately suspended until she has fully complied with the requirement for which she has failed to comply with. Motion carried.

Motion by Nelson, seconded by Krogman, to move the approval/denial of applications up to the next item on the agenda. Motion carried.

Brian DeNeui appeared before the Commission at 10:49 a.m. on the request for approval of his broker associate application.

Motion by Nelson, seconded by Bonde, to enter into executive session at 10:56 a.m. pursuant to SDCL 1-25-2(3). Motion carried.

The Commission reconvened to regular session at 11:00 a.m.

Motion by Lewis, seconded by Nelson, to approve the broker associate application of Brian DeNeui. Motion carried.

Brian DeNeui left the meeting at 11:01 a.m.

Motion by Nelson, seconded by Krogman, to approve the broker associate application of applicant No. 2. Motion carried.

Motion by Nelson, seconded by Bonde, to deny the broker associate application of applicant No. 3 until evidence is furnished that judgment has been satisfied. Motion carried.

Motion by Bonde, seconded by Nelson, to deny the residential rental agent application of applicant No. 4 until proof that the judgment has been satisfied. Motion carried.

Motion by Nelson, seconded by Krogman, to approve the broker associate application of applicant No. 5. Motion carried with Bonde voting Nay.

Motion by Nelson, seconded by Bonde, to enter into executive session at 11:11 a.m. pursuant to SDCL 1-25-2(3). Motion carried.

The Commission reconvened to regular session at 11:48 a.m.

Motion by Nelson, seconded by Krogman, to have legal counsel amend the complaint to include the responsible broker and negotiate a consent agreement with the license and responsible broker in complaint 2014-066. Motion carried.

Motion by Nelson, seconded by Bonde, to have legal counsel amend the complaint to include the responsible brokers for both the buyer's agent and seller's agent and negotiate a consent agreement with the seller's agent, buyer's agent and responsible brokers in complaint 2014-069. Motion carried.

Motion by Lewis, seconded by Bonde, to dismiss complaint 2014-077. Motion carried.

Motion by Nelson, seconded by Krogman, to renegotiate a consent agreement with Bo Hauer. Motion carried.

Motion by Nelson, seconded by Krogman, to accept the consent agreement signed by Ernest Rupp to the following:

- a. Mr. Rupp will pay an administrative fine in the amount of \$500 to the South Dakota Real Estate Commission within 15 days of receipt of a signed copy of this Consent Agreement.

Motion carried.

Discussion was held on a request of the executive director to discontinue the use of the application for conditional approval. Motion by Bonde, seconded by Nelson, to support the executive director's request to discontinue the use of the application for conditional approval. Motion carried.

Discussion was held on recorders for the investigators. Motion by Nelson, seconded by Bonde, to have the executive director determine the number of recorders needed and the cost to purchase recorders for office staff.

Election of officers was held. Motion by Nelson, seconded by Lewis, to nominate Matt Krogman as Chairman and David Bonde as Vice Chairman. Motion carried.

The executive director handed out revised forms for the Commission to review for the next Commission meeting.

Discussion was held on possible future legislation.

The next regular meeting of the Commission will be held July 16 & 17, 2014 in Pierre.

There being no further business the meeting adjourned at 12:40 p.m. Motion carried.

Minutes submitted by Norma Schilling

Mark Wahlstrom, Chairman

Melissa Miller, Executive Director