

SOUTH DAKOTA REAL ESTATE COMMISSION
JUNE 14, 2011
TELEPHONIC MEETING
221 WEST CAPITOL AVENUE SUITE 101
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened telephonically at 1:00 p.m. on June 14, 2011. Present for the meeting were Chairperson Paula Lewis and commission members Dennis Eisnach, Charles Larkin, Douglas Nelson and Mark Wahlstrom. Also present were interim director Lloyd Schipper, licensing program administrator Norma Schilling, legal counsel Lindsey Riter Rapp and Robert Riter, Department of Labor and Regulation public affairs director Dawn Dovre, Department of Labor and Regulation legal counsel Aaron Arnold, Department of Labor and Regulation finance officer Lyle Harter and compliance officers Michelle Metzinger and Brian Jackson.

Motion made and seconded to approve the minutes of the May 4 and 5, 2011, May 24, 2011, and June 2, 2011, meetings. A roll call vote was taken. The motion unanimously carried.

Motion made and seconded to accept the April 2011 and May 2011 financial reports. A roll call vote was taken. The motion unanimously carried.

Discussion was held on the FY 2012 cash budget. Following discussion, motion made and seconded to approve the FY 2012 cash budget as presented. A roll call vote was taken. The motion unanimously carried.

Finance office Lyle Harter left the meeting at 1:15 p.m.

Motion made and seconded to enter into executive session at 1:15 p.m. to discuss with legal counsel pending litigation pursuant to SDCL 1-25-2(3). A roll call vote was taken. The motion unanimously carried.

Legal counsel Robert Riter left the meeting at 1:40 p.m.

Legal counsel Lindsey Riter Rapp, licensing program administrator Norma Schilling and compliance officers Michelle Metzinger and Brian Jackson temporarily left the meeting at 2:17 p.m.

Legal counsel Lindsey Riter Rapp, licensing program administrator Norma Schilling and compliance officers Michelle Metzinger and Brian Jackson rejoined the meeting at 2:30 p.m.

Motion made and seconded to come out of executive session at 2:33 p.m. A roll call vote was taken. The motion unanimously carried.

Legal counsel informed the commission that due to the flooding issues in Pierre and Fort Pierre, attorney Tom Maher was not able to provide a proposal for the Pat Donahue appeal but that he would provide a proposal at the Commission's July meeting

Complaint #2011-017, motion made and seconded that a consent order be issued to Charlotte Herrlein and Harvey Youngberg informing them that forms must comply with the requirements imposed by SDCL 36-21A-130 and ARSD 20:69:17:01 and will include that Charlotte Herrlein is to complete three hours of continuing education in agency and three hours of continuing

education in contracts and Harvey Youngberg is to complete the 15 hour responsible broker course. The education is to be completed by December 31, 2011, and is in addition to the 24 hours of education required to renew their licenses and must be completed in a classroom setting. The education cannot be completed through the South Dakota School of Real Estate. A roll call vote was taken. The motion unanimously carried.

Motion made and seconded to appeal the Circuit Court's decision on Cheri St. Pierre to the Supreme Court. A roll call vote was taken with commission member Douglas Nelson abstaining. The motion unanimously carried.

Motion made and seconded to accept the Findings of Fact, Conclusions of Law and Proposed Decision of Hearing Officer Hillary Brady in the matter of the South Dakota Real Estate Commission v. Paul Riss and Keith Carlyle.

That as to Defendant, Paul Riss, the Commission enters the following order: (1) the license of Paul Riss be suspended for two (2) years with all but four (4) months stayed. That the remaining portion shall be held in abeyance during which time Defendant must: (a) pay a penalty of \$2,500; (b) reimburse the commission for one-half of its actual expenses; (c) attend and successfully complete six (6) hours of continuing education in license law; (d) renew his license as prescribed in statute. Should Defendant fail to complete any of the above requirements within the prescribed timeframe, his license shall be immediately suspended for the remaining 20 months.

That as to Defendant, Keith Carlyle, the Commission enters the following order: (1) the license of Keith Carlyle shall be suspended for one (1) year. That this one (1) year shall be held in abeyance during which time Defendant must: (a) pay a penalty of \$1,000; (b) reimburse the commission for one-half of its actual expenses; (c) attend and successfully complete the 15 hour responsible broker course. Should Defendant fail to complete any of the above requirements within the prescribed timeframe, his license shall be immediately suspended for one (1) year.

The education for Mr. Riss and Mr. Carlyle is over and above the 24 hours of education to renew their licenses and must be completed in a classroom setting and completed by December 31, 2011. The education cannot be completed through the South Dakota School of Real Estate. The penalties and costs of both licensees must be paid within 30 days of the date of the Order.

A roll call vote was taken with commission member Dennis Eisnach abstaining. The motion unanimously carried.

Motion made and seconded to deny the request to modify the consent order of Dennis Breske. A roll call vote was taken. The motion unanimously carried.

Motion made and seconded to amend the formal complaint of Kirk Dirksen to include responsible broker Troy Trygstad and move to a formal hearing. A roll call vote was taken. The motion unanimously carried.

Motion made and seconded to accept a payment plan for Raymond "Bucky" Heyer with his license remaining in the Real Estate Commission office until payment is made in full. A roll call vote was taken. The motion unanimously carried.

Motion made and seconded to table any decision on the unsatisfied stipulation until the next meeting. A roll call vote was taken. The motion unanimously carried.

Discussion was held on a request to postpone the formal hearing on Paul Vallette. Following discussion, motion made and seconded to grant the request for a continuance for the Paul Vallette hearing and have legal counsel request an update on civil action from Mr. Vallette's attorney for the next meeting. A roll call vote was taken. The motion unanimously carried.

Discussion was held on a request for a change in venue for the formal hearing on Kathy Allen. Following discussion, motion made and seconded to deny the request for a change in venue. A roll call vote was taken. The motion unanimously carried.

Motion made and seconded to enter into executive session at 3:25 p.m. pursuant to SDCL 1-25-2(1). A roll call vote was taken. The motion unanimously carried.

Interim director Lloyd Schipper, legal counsel Lindsey Riter Rapp, licensing program administrator Norma Schilling and compliance officers Michelle Metzinger and Brian Jackson temporarily left the meeting at 3:25 p.m.

Interim director Lloyd Schipper, legal counsel Lindsey Riter Rapp, licensing program administrator Norma Schilling and compliance officers Michelle Metzinger and Brian Jackson rejoined the meeting at 3:50 p.m.

Motion made and seconded to come out of executive session at 3:50 p.m. A roll call vote was taken. The motion unanimously carried.

Motion made and seconded to offer the executive director position to the commission's recommended candidate at the recommended salary. A roll call vote was taken. The motion unanimously carried.

The interim director informed the commission of the ARELLO Investigator/Auditor Workshop to be held in Bellevue, WA, August 1-4, 2011. Following discussion, motion made and seconded to submit a request for the compliance officers to attend the ARELLO Investigator/Auditor Workshop. A roll call vote was taken. The motion unanimously carried.

The interim director informed the commission of the 2011 ARELLO District 2/3 Conference in Orange Beach, AL, August 12-14, 2011. Following discussion, motion made and seconded to submit a request for three commission members and the executive director to attend the 2011 ARELLO District 2/3 Conference. A roll call vote was taken. The motion unanimously carried.

Commission chairperson Paula Lewis briefed the commission on the current plans for South Dakota and North Dakota hosting the 2012 ARELLO District 2/3 Conference which will be held in June 2012 in Rapid City, SD.

The interim director informed the commission of the CLEAR investigator training workshop to be held in Pittsburgh, PA, September 5-7, 2011. Following discussion, motion made and seconded to submit a request for compliance officer Brian Jackson to attend. A roll call vote was taken. The motion unanimously carried.

Discussion was held on legal services. Following discussion, the commission suggested that legal counsel from the Department of Labor and Regulation, legal counsel from Riter, Rogers,

Wattier & Northrup, LLP and commission member Dennis Eisnach work through the details of the division of legal responsibilities between the Department of Labor and Regulation and Riter, Rogers, Wattier & Northrup, LLP.

Election of officers was held with a motion made and seconded to nominate Charles Larkin as Chairman and Douglas Nelson as Vice Chairman. A roll call vote was taken. The motion unanimously carried.

Compliance officer Brian Jackson informed the commission that he had been in contact with Michelle Kleven, Executive Vice President of the South Dakota Association of REALTORS® regarding education for first time home buyers.

Legal counsel will contact James Olson, attorney for Martin Jurisch, regarding his request for a continuance on the formal hearing.

The next meeting of the commission will be held July 20 and 21, 2011, in Pierre.

There being no further business, motion made and seconded to adjourn at 4:27 p.m. A roll call vote was taken. The motion unanimously carried.

Paula Lewis, Chairperson

Lloyd Schipper, Interim Executive Director

I, Lloyd Schipper, 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 14, 2011.

Lloyd Schipper, Interim Executive Director