

South Dakota Real Estate Commission
Capitol Lake Plaza
July 14, 2016
711 East Wells Ave
Pierre South Dakota

The South Dakota Real Estate Commission convened at 8:12 a.m. on July 14, 2016. Present for the meeting were Chair Ryan Wordeman and Commissioners David Bonde, Mark Wahlstrom, and Ken Cotton. Also present were Executive Director Melissa Miller, compliance officer Brian Jackson and Department of Labor and Regulation legal counsel Aaron Arnold. Additional public also in attendance were James Gatti and Jim Rezac.

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

Motion by Cotton, seconded by Wahlstrom to approve minutes of the May 12, 2016 meeting. Motion carried.

Summary of the financials was presented by Director Miller. This year's budget is the first year Arnold's salary (proportion) had been deducted from SDREC funds. Discussion of next fiscal year's budget will be held at a future meeting. Motion by Cotton, seconded by Bonde to approve financial reports for May and June. Motion carried.

Motion by Wahlstrom, seconded by Cotton to approve the consent agreement for Joshua Uhre with a \$100 penalty for violation of SDCL: 36-21A-80 for failure to balance the trust account on a monthly basis, i.e. lack of a ledger, lack of reconciliation, negative trust balances, or funds that are unaccounted for and SDCL 36-21A-71 (1). Motioned carried.

Motion by Wahlstrom, seconded by Cotton to approve the consent agreement for Mia Semmler with a \$100 penalty for violation of SDCL: 36-21A-52 – failure to report a place of business or failure to report a change of location within 10 days of the change and SDCL 36-21A-71 (1). Motion carried.

Motion by Cotton, seconded by Wahlstrom to approve the broker associate application of applicant #1. Motion carried.

Rezac and Gatti left the meeting at 8:28 a.m.

Motioned by Wahlstrom, seconded by Cotton to deny the property management application of applicant #2. Motion carried.

Complaint 2016-012 – There was a discussion of assurance of voluntary compliance negotiation between commission and respondent's attorney. Motion to approve assurance of voluntary compliance in which Derek Kattenberg and Joshua Kattenberg agree to a fine of \$500 and a total of 18 hours of education (that does not count towards their continuing education) to be completed by March 30, 2017 by Cotton and second by Wahlstrom. Motion carried.

Compliance officer Metzinger joined the meeting at 8:42 a.m.

Director Miller updated the commission of complaint 2015-074. The respondent did not complete the education requirement of the assurance of voluntary compliance by the date agreed to in the agreement. The respondent will be paying the additional \$1,000 fine for not completing the education by the agreed upon time stated in the agreement and the deadline to complete education has been extended to August 15, 2016.

Commissioner Krogman joined the meeting at 8:50 a.m.

Compliance officer Jackson provided a summary of complaint 2016-092.

Motion by Wahlstrom, second by Bonde, to enter into executive session at 9:09 a.m. pursuant to SDCL 1-25-2(3). Motion carried. Compliance officers Jackson and Metzinger left the meeting at 9:09 a.m.

The Commission reconvened to regular session at 9:21 a.m.

Compliance officers Jackson and Metzinger rejoined the meeting at 9:22 a.m.

Motion by Krogman, second by Bonde, for counsel to negotiate consent agreement with respondent and letter to responsible broker for complaint 2016-092. Motion carried.

Compliance officer Metzinger provided a summary of complaint 2016-096.

Motion by Wahlstrom, second by Cotton, to enter into executive session at 9:41 a.m. Motion carried.

Compliance officers Jackson and Metzinger left the meeting at 9:41 a.m.

The Commission reconvened to regular session at 9:46 a.m.

Compliance officers Jackson and Metzinger rejoined the meeting at 9:47 a.m.

Motion to Wahlstrom, second by Krogman, to negotiate consent agreement with respondent for complaint 2016-096. Motion carried.

A short break was taken at 9:48.

The meeting reconvened at 9:55.

SD Department of Labor, Special Assistant Attorney Arnold, presented the transactional brokerage report prepared for the commission and the Department of Labor and Representative Alex Jensen. The Governor's office has also been provided a copy of the report. The report findings are that SD transactional brokerage laws are not uncommon as compared to other states.

Compliance officer Jackson presented a summary of real estate teams and discussion was held about team regulations. The South Dakota Association of Realtors®, at a recent association meeting, had

reviewed recently approved team regulations by the State of Nebraska and is looking into possibly introducing legislation in 2017 pertaining to team regulation. The SDREC will work with SDAR about their proposal.

Discussion was held regarding section 13 of the SDREC purchase agreement and the changes which have occurred due to TRID changes and simultaneous owner title insurance issuance.

Discussion was held about liens and applying for a real estate license.

Arnold held discussion regarding open meeting law changes that went into effect on July 1, 2016.

Compliance officer Metzinger left the meeting at 11:45 a.m.

Beth Marnell, the new SDREC Education Director, joined the meeting at 12:03 pm to give a presentation on the property manager exam. The commission had been considering contracting with AMP, the company which proctors the South Dakota broker associate licensing exam, to create, administer and proctor the South Dakota property management exam. AMP would like to have a minimum of 50 examinations per year however the SDREC has licensed, on average, approximately 25 property manager licenses per year in recent years. The education director recommended the property management exam be administered by the SDREC and the exam be updated.

Discussion was held regarding licensees printing their license upon renewal. Discussion was also held about online renewal and streamlining the application and renewal process. The commission will continue to research this possibility, and additional opportunities, within the capabilities of our current database.

The next regularly scheduled meeting will be held September 7 and 8, 2016.

There being no further business, motion by Krogman, second by Cotton, to adjourn at 12:34 p.m. Motion carried.

Minutes submitted by Brian Jackson

Ryan Wordeman, Vice Chairman

Melissa Miller, Executive Director

