

SOUTH DAKOTA REAL ESTATE COMMISSION  
JULY 20 & 21, 2011  
KNEIP BUILDING  
700 GOVERNORS DRIVE  
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 8:30 a.m. on July 20, 2011. Present for the meeting were Chairman Charles Larkin and commission members Dennis Eisnach, Paula Lewis, Douglas Nelson and Mark Wahlstrom. Also present were executive director Melissa Miller, licensing program administrator Norma Schilling, legal counsel Lindsey Riter-Rapp, Department of Labor and Regulation public affairs director Dawn Dovre, Department of Labor and Regulation legal counsel Aaron Arnold, and compliance officers Michelle Metzinger and Brian Jackson.

Motion made and seconded to approve the minutes of the June 10, 2011, and June 14, 2011, meetings. Motion carried.

Motion made and seconded to approve the financial report for June 2011 and have the executive director work with the Department of Labor and Regulation administrative services director to make some adjustments to the reports for the Commission. Motion carried.

The executive director informed the Commission that she had received the form to complete for the annual report for 2011 and will present to the Commission at the August meeting.

Discussion was held on Internet advertising and the citation program.

Dawn Dovre left the meeting at 8:55 a.m.

Hearing examiner Hillary Brady convened the formal hearing on complaint 2011-015, SDREC vs. Terri Hollenbeck, at 9:08 a.m. Present for the hearing, in addition to the commission members, were legal counsel Lindsey Riter-Rapp, executive director Melissa Miller, licensing program administrator Norma Schilling, Department of Labor and Regulation legal counsel Aaron Arnold, court reporter Cheri Wittler, compliance officers Michelle Metzinger and Brian Jackson, and defendant's legal counsel Christie Klinger. Defendant Terri Hollenbeck appeared telephonically. The hearing closed at 9:25 a.m.

Motion made and seconded to enter into executive session at 9:40 a.m. for deliberation. Motion carried.

Motion made and seconded to come out of executive session at 10:25 a.m. Motion carried.

Motion made and seconded to dismiss complaint 2011-018 against James Aesoph. Motion carried.

Motion made and seconded that legal counsel issue a consent order to settle complaint 2011-018 against Gregory Hoftiezer and that he reimburse the Commission for costs and complete six hours of continuing education in agency. The education is to be completed by December 31, 2011, and is in addition to the 24 hours of education required to renew his license and must be completed in a classroom setting. To avoid any conflict of interest, any education requirements given by the Commission as a result of complaints may not be taken through the South Dakota School of Real Estate. Consent order does not take effect until signed by licensee and accepted by the Commission. Motion carried.

Compliance officer Brian Jackson presented the Commission with information on unlicensed activity on a property in Sioux Falls and alternatives that would be available to the Real Estate Commission for handling unlicensed activity. Following discussion, motion made and seconded to have the executive director or compliance officer write a letter to the non-licensed person/entity and the property owner describing the unlicensed activity and informing them to cease such activity or face injunctive proceedings. The letter will be served to the non-licensed person and property owner by the sheriff. Motion carried.

Patrick Donahue and his attorney Tom Maher appeared before the Commission to present a proposed stipulation and settlement agreement for complaint 2007-022.

Motion made and seconded to enter into executive session at 11:00 a.m. for deliberation. Motion carried.

Motion made and seconded to come out of executive session at 11:08 a.m. Motion carried.

Motion made and seconded to accept the proposed stipulation and settlement agreement with Patrick Donahue upon the following terms and conditions: (1) pay a fine of \$2,500 and reimburse the Commission costs of \$5,653.01; (2) attend the 15 hour responsible broker course and complete six hours of license law; (3) suspend his broker license for a period of five months which will take effect beginning September 30, 2011; (4) upon the completion of the above-mentioned classes and the period of suspension, restore his broker's license to him; (5) he will transfer any right, title and interest he may hold in United Country/Western Properties, Inc. to Jeb Hughes or another individual who is eligible to become a responsible broker, and that individual shall forthwith become the responsible broker of United Country/Western Properties, Inc. until all fine, costs, education and suspension has been fulfilled; (6) upon acceptance of this agreement by the Commission, he will execute a stipulation of dismissal with prejudice on its merits and without costs and the Judge may thereafter enter his order of dismissal herein without any further notice or hearing by any of the parties. The required education must be completed in a classroom setting and will not count towards continuing education to renew his license. This coursework must be completed within one year from the date of acceptance of this settlement agreement by the Commission. Roll call motion carried with commission members Douglas Nelson and Mark Wahlstrom abstaining.

Legal counsel Lindsey Riter-Rapp informed the Commission that she has filed a motion to dismiss the appeal of Jerad Rokusek regarding complaint 2010-011, and that a hearing on that motion has been scheduled for August.

Legal counsel Lindsey Riter-Rapp informed the Commission that the Real Estate Commission has received the Notice of Entry of Order in the matter of the SDREC v. St. Pierre, and that a notice of appeal will thereafter be filed.

The Commission recessed for lunch at 11:45 a.m. and reconvened at 1:20 p.m.

Dawn Dovre joined the meeting at 1:30 p.m.

Troy Trygstad appeared before the Commission telephonically to request a continuance in complaint 2011-021, SDREC vs. Kirk Dirksen/Troy Trygstad. Motion made and seconded to grant the continuance to Troy Trygstad. Motion carried.

Hearing examiner Hillary Brady convened the formal hearing on complaint 2011-021, SDREC vs. Kirk Dirksen, at 1:40 p.m. Present for the hearing, in addition to the commission members, were legal counsel Lindsey Riter-Rapp, executive director Melissa Miller, licensing program administrator Norma Schilling, Department of Labor & Regulation legal counsel Aaron Arnold, court reporter Cheri Wittler and compliance officers Michelle Metzinger and Brian Jackson. Defendant Kirk Dirksen did not appear for the hearing. The hearing closed at 1:52 p.m.

Motion made and seconded to enter into executive session at 2:05 p.m. for deliberation. Motion carried.

Motion made and seconded to come out of executive session at 2:20 p.m. Motion carried.

The executive director asked the Commission for input for the jurisdictional update for the ARELLO District 2 & 3 Conference.

The executive director informed the Commission of the ARELLO Annual Conference in Baltimore, MD September 28 – October 1, 2011. Motion made and seconded to submit a request for four commission members, the executive director and legal counsel Aaron Arnold to attend. Motion carried.

Commission member Paula Lewis updated the Commission on the ARELLO District 2 & 3 Conference to be held in Rapid City in June 2012.

Discussion was held on commercial forms. Commission member Doug Nelson will check with one of his licensees on commercial forms that are used by his company. A task force will be resumed to work on commercial forms.

The Commission will discuss proposed legislation at the next meeting.

The executive director informed the Commission the dates for the 2011 Fall Caravan have been set for October and November.

Department of Labor and Regulation legal counsel Aaron Arnold left the meeting at 3:20 p.m., and Department of Labor and Regulation legal counsel Nathan Lukkes joined the meeting at 3:25 p.m.

Motion made and seconded to enter into executive session at 3:30 p.m. for deliberation. Motion carried.

Motion made and seconded to come out of executive session at 3:45 p.m. Motion carried.

Motion made and seconded to approve the application for conditional approval for Jason Miller. Motion carried.

The meeting recessed at 3:50 p.m. and reconvened at 9:00 a.m. on July 21, 2011.

Motion made and seconded that legal counsel issue a consent order to Sabrina Arnold and Sue Cramer for complaint 2011-019.

That as to Defendant, Sabrina Arnold, the Commission enters the following consent order: (1) pay a fine of \$500; (2) reimburse the Commission for one-half the expenses incurred herein; (3) complete 8 hours of education in property management and trust accounting approved by the Commission, at the first available offering within one year.

That as to Defendant, Sue Cramer, the Commission enters the following consent order: (1) pay a fine of \$1,000; (2) reimburse the Commission for one-half the expenses incurred herein; (3) complete the 15 hour responsible broker course by December 31, 2011.

The education is in addition to the 24 hours of education required to renew their licenses and must be completed in a classroom setting. To avoid any conflict of interest, any education requirements given by the Commission as a result of complaints may not be taken through the South Dakota School of Real Estate. Consent order does not take effect until signed by licensee and accepted by the Commission. Motion carried.

Motion made and seconded to enter into executive session at 10:25 a.m. for deliberation. Motion carried.

Motion made and seconded to come out of executive session at 10:40 a.m. Motion carried.

Motion made and seconded that legal counsel issue a consent order to Troy Trygstad for complaint 2011-021. to reimburse the Commission for one-half the expenses incurred herein

and complete the 15 hour responsible broker course by December 31, 2011. The education is in addition to the 24 hours of education required to renew his license and must be completed in a classroom setting. To avoid any conflict of interest, any education requirements given by the Commission as a result of complaints may not be taken through the South Dakota School of Real Estate. Consent order does not take effect until signed by licensee and accepted by the Commission. Motion carried.

The Commission instructed office staff to include the license history, education summary and renewal status of licensees in the complaint packet.

Discussion was held on the disclosure of a sex offender in a real estate transaction.

The next meeting of the Commission will be held August 31 and September 1, 2011, in Pierre.

There being no further business, motion made and seconded to adjourn at 11:05 a.m. Motion carried.

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Charles Larkin, Chairman

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Melissa Miller, Executive Director

I, Melissa Miller, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on July 20 and 21, 2011.

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Melissa Miller, Executive Director