

SOUTH DAKOTA REAL ESTATE COMMISSION
AUGUST 31, 2011
KNEIP BUILDING
700 GOVERNORS DR
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 8:30 a.m. on August 31, 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, Department of Labor and Regulation legal counsel Aaron Arnold, Department of Labor and Regulation public affairs director Dawn Dovre, and compliance officers Michelle Metzinger and Brian Jackson.

Motion made by Nelson, second by Wahlstrom to approve the minutes of the July 20 & 21, 2011 meeting. Motion carried.

Motion made by Nelson, seconded by Lewis, to accept the financial report for July 2011. Motion carried.

Education Director Karen Callahan gave a report to the Commission on the AMP Advisory Meeting held August 22, 2011 in Olathe, KS.

Karen left the meeting at 9:00 a.m.

Compliance officer Brian Jackson gave a report to the Commission on the ARELLO Investigator Workshop held August 1-4, 2011 in Bellevue, WA.

Executive Director Melissa Miller and Commission member Paula Lewis updated the Commission on the 2012 ARELLO District 2 & 3 Conference to be held June 5-7, 2012 in Rapid City, SD. They will continue working with Pat Jurgenson, Executive Director of the North Dakota Real Estate Commission, on a budget, speakers and evening events for the conference.

Legal counsel Lindsey Riter-Rapp joined the meeting at 9:30 a.m.

Department of Labor and Regulation legal counsel Aaron Arnold addressed the Commission on consent agreement and orders and the current complaint process and suggested some possible changes that could be made in the handling of complaints. Department of Labor and Regulation legal counsel Nathan Lukkes joined the meeting at 9:50 a.m. and Aaron left the meeting at 9:55 a.m. Following lengthy discussion, Nathan asked the Commission to keep an open mind to see if changes could be made to the complaint process.

Aaron Arnold rejoined the meeting at 10:30 a.m. and Nathan Lukkes left the meeting at 10:30 a.m.

Legal counsel Lindsey Riter-Rapp informed the Commission that she had received a request for a Stipulation and Assurance of Voluntary Compliance from Matt Konenkamp, legal counsel for Joel Willette. Mr. Konenkamp appeared telephonically on behalf of Joel Willette at 10:30 a.m. The call ended at 10:43 a.m.

Motion made by Eisnach, seconded by Nelson, to enter into executive session at 10:45 pursuant to SDCL 1-25-2(3) to consult with legal counsel. Motion carried.

Dawn Dovre left the meeting at 11:30 a.m.

Motion made by Nelson, seconded by Wahlstrom to come out of executive session at 11:55 a.m. Motion carried.

Legal counsel Lindsey Riter-Rapp left the meeting at 11:55

Motion made by Nelson, seconded by Lewis, to enter into executive session at 12:00 noon for deliberation. Motion carried.

Motion made by Nelson, seconded by Eisnach, to come out of executive session at 12:05 p.m. Motion carried.

Motion made by Nelson, seconded by Eisnach, to authorize legal counsel Lindsey Riter-Rapp to enter into discussion with the attorneys of Joel Willette and Martin Jurisch for the purpose of a settlement. Motion carried.

Motion made by Wahlstrom, seconded by Nelson to enter into executive session at 12:10 p.m. pursuant to SDCL 1-25-2(3) to consult with legal counsel about proposed litigation.

Motion made by Eisnach, seconded by Nelson to come out of executive session at 12:45 p.m. Motion carried.

Motion made by Eisnach, seconded by Nelson to have legal counsel file a complaint against a licensee as the result of an audit. Motion carried.

Motion made by Eisnach, seconded by Nelson to dismiss complaint 2011-020 and have the executive director write a letter to the licensees.

Motion made by Wahlstrom, seconded by Nelson to enter into executive session at 12:47 p.m. for deliberation. Motion carried.

Motion made by Nelson, seconded by Wahlstrom to come out of executive session at 12:57 p.m. Motion carried.

Motion made by Nelson, seconded by Wahlstrom, to adopt the proposed Findings of Fact, Conclusions of Law and Proposed Decision of Hearing Examiner Hillary Brady to the revocation of the license of Kirk Dirksen. Motion carried.

Motion made by Nelson, seconded by Wahlstrom to adopt the Findings of Fact and Conclusions of Law and amend the Proposed Decision of Hillary Brady on Terri Hollenbeck to the following: (1) reimburse the Commission for costs of disciplinary proceeding within 30 days of the Order. Failure to pay within 30 days will result in revocation of her license; (2) prior to reactivation of her license she must complete the 15 hour responsible broker course; (3) prior to reactivation of her license she must complete six hours of education in license law; (4) upon reactivation, her license will be suspended for a period of one year with the one year suspension held in abeyance so long as she has no further violations of SDCL Ch. 36-21A or any administrative regulations and that she pay a monetary penalty of \$1,000 to the South Dakota Real Estate Commission within 30 days of the date of reactivation of her license. The required education must be completed in a classroom setting and will not count towards reactivating her license. The required education must be completed in South Dakota and cannot be completed at the South Dakota School of Real Estate. Motion carried.

Compliance officer Brian Jackson informed the Commission that he had sent a letter to an out of state broker for advertising property in South Dakota without a South Dakota license.

Compliance officer Brian Jackson shared a report from the ARELLO Re-Districting Task Force which indicates some changes to ARELLO if adopted.

Dawn Dovre rejoined the meeting at 1:25 p.m.

Discussion was held on proposed legislation. The executive director and Commission chairman will work with public affairs director Dawn Dovre in drafting the proposed legislation. The proposed legislation needs to be submitted by mid-September.

Discussion was held on commissions and nondisclosure of compensation.

The next meeting of the Commission will be held October 12 & 13, 2011 in Pierre.

There being no further business, motion made by Nelson, seconded by Wahlstrom to adjourn at 1:40 p.m. Motion carried.

Charles Larkin, Chairman

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 August 31, 2011.

Melissa Miller, Executive Director