

SOUTH DAKOTA REAL ESTATE COMMISSION
DECEMBER 9 & 10, 2009
AMERICINN HOTEL & CONFERENCE CENTER
312 ISLAND DRIVE
FORT PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 9:00 a.m. on December 9, 2009 in AmericInn Hotel & Conference Center, Fort Pierre, SD. Present for the meeting were Chairman Dennis Eismach and commission members Eileen Fischer, Charles Larkin, Paula Lewis. Commission member Brian Jackson was not present. Also present was Lindsey Riter-Rapp, legal counsel, executive director Dee Jones Noordermeer and compliance officer Michelle Metzinger.

Motion made and seconded to approve the minutes of the October 7 & 8, 2009 meeting. Motion carried.

Motion made and seconded to accept the financial reports for September, October, & November 2009. Motion carried.

Dee Jones Noordermeer reported on the 2009 renewal update.

Motion made and seconded to enter into executive session at 9:30 a.m. Motion carried.

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

Motion made and seconded to dismiss complaint #2010-001 and have the executive director write a letter of admonishment to the licensee. Motion carried.

Motion made and seconded to dismiss complaint #2010-002. Motion carried.

Motion made and seconded to file a formal complaint against Barbara Kimmel complaint #2010-003. Motion carried.

Motion made and seconded to file a formal complaint against Kristol O'Connor complaint #2010-004. Motion carried.

Motion made and seconded to offer Cleo Penfield an opportunity to sign an amended stipulation of voluntary compliance within 10 days of receipt of the stipulation. Motion carried.

Discussion was held regarding licensees who failed to satisfy stipulations.

Motion made and seconded to file a formal complaint against Merlin Grave in file 2009-001 for his failure to comply with the stipulation and assurance of voluntary compliance. Motion carried.

Motion made and seconded to file a formal complaint against Cheri St. Pierre in file 2008-013 for her failure to comply with the stipulation and assurance of voluntary compliance. Motion carried.

Motion made and seconded to enter into executive session at 11:15 a.m. Motion carried.

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Motion made and seconded to come out of executive session at 11:35 p.m. Motion carried.

Motion made and seconded to file a formal complaint with a summary suspension of the license of Tobin Karn. Motion carried.

Motion made and seconded to file a formal complaint against Doug Andrews. Motion carried.

The Commission recessed for lunch at 11:40 a.m. and reconvened at 1:00 p.m.

Commissioner Jackson joined the meeting at 1:15 p.m.

Motion made and seconded to approve the experience waiver for John Eikanger. Motion carried.

The executive director reported on the auctioneer task force. The task force met via phone conference and reviewed the auctioneer listing agreement, procedure, and proposed definitions for absolute auction.

The executive director reported information regarding fingerprint cards and procedures from other jurisdictions. The executive director will research procedures for electronic fingerprint card capabilities and the costs involved to engage a third party vendor.

Discussion was held regarding advance fees and menu of services.

Motion made and seconded to approve revisions to the citation program adopted by the commission. Motion carried.

Discussion was held on the proposed out of state travel policy. Discussion was tabled to the February 2010 meeting.

Sherry Bren joined the meeting at 2:45 p.m.

Legal counsel Lindsey Riter-Rapp left the meeting at 3:00 p.m.

Legal counsel Bob Riter joined the meeting at 3:00 p.m.

Hearing Examiner Hilary Brady at 3:00 p.m. convened the formal hearing on complaint #2010-007, SDREC vs Kayleen Swanhorst. Present for the hearing in addition to the commission members were, court reporter Cheri Wittler, executive director Dee Jones Noordermeer, legal counsel Bob Riter, compliance officer Michelle Metzinger, defendant Kay Swanhorst and executive director of the Appraiser Certification Program Sherry Bren.

The formal hearing closed at 3:20 p.m.

Commission members reviewed a request for Barbara Baker to reinstate her broker associate license. No action taken.

An update of the ARELLO Annual Conference held in Miami, FL on October 22-24, was given by Commissioner Lewis and executive director Dee Jones Noordermeer.

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The meeting recessed at 4:50 p.m. and reconvened at 8:30 a.m. on December 10, 2009.

Motion made and seconded to deny the request for reconsideration on complaint #2008-014, SDREC vs Garry Neiderworder & Robert Leonard. Commissioner Lewis recused herself from this discussion. Motion carried.

The executive director informed the commission members of a new organization being formed by the vacation rental industry.

Commissioner Lewis reported on updates from the industry on the Builders Energy Efficiency Disclosure requirements.

Hearing Examiner Hilary Brady at 9:00 a.m. convened the formal hearing on complaint #2009-024, SDREC vs James Lee. Present for the hearing were commissioners Charles Larkin, Paula Lewis, Dennis Eisnach, and Eileen Fischer. Also present was executive director Dee Jones Noordermeer, legal counsel Lindsey Riter-Rapp, defendant James Lee, witness Rachelle Evans, witness Joan Cota, compliance officer Michelle Metzinger, and court reporter Cheri Wittler.

The formal hearing closed at 1:45 p.m.

Motion made and seconded to move to executive session at 1:50 p.m. Motion carried.

Motion made and seconded to come out of executive session at 2:10 p.m. Motion carried.

The next meeting of the Commission will be held January 11 & 12, 2010, in Sioux Falls.

There being no further business, motion made and seconded to adjourn at 2:15 p.m. Motion carried.

Dennis Eisnach, Chairman

Dee Jones Noordermeer, Executive Director

I, Dee Jones Noordermeer, hereby certify that the above is a true and correct copy of the minutes of the South Dakota Real Estate Commission meeting held on December 9 & 10, 2009.

Dee Jones Noordermeer, Executive Director