

Meeting Minutes
South Dakota Real Estate Commission
123 W Missouri Ave
Pierre, SD 57501
March 15, 2018 8:30 a.m. CDT

Chairman Ken Cotton called the meeting to order at 8:30 a.m. A quorum was participating.

Members Participating: Ryan Wordeman
Mark Wahlstrom
Ken Cotton
Matt Krogman
Dave Bonde

Others Participating: Melissa Miller, Executive Director, SDREC
Brian Jackson, Compliance Officer, SDREC
Graham Oey, Staff Attorney, South Dakota Department of Labor
and Regulation

Miller asked to have complaint 2018-006 added as item 7F to the agenda. Bonde made a motion to amend the agenda to add 7F. Wahlstrom seconded the motion. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Krogman made a motion to approve the January 8, 2018 meeting minutes. Wordeman seconded the motion. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Miller provided a summary of the financials for January 2018 and February 2018.

Wahlstrom made a motion to approve financial reports for filing. Wordeman seconded the motion. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Miller informed the commission the consent agreements for the commission's consideration as item 5 on the agenda had been offered to licensees who failed to maintain errors and omissions insurance or to provide proper notification to the commission of errors and omissions insurance (SDCL 36-21A-119, ARSD 20:69:15:02, 20:69:15:06, 20:69:15:07); performing real estate brokerage activity beyond the month in which a license lapses for non-payment of renewal fees, and/or not filing/completing the required continuing education (SDCL 36-21A-61, 36-21A-62, 36-21A-64); or failure to reconcile a trust account at least monthly (SDCL 36-21A-80). Failure to maintain individual ledger sheets, deposit slips, check registers or bank statements of any trust account. (SDCL 36-21A-82).

Wordeman made a motion to approve the citation program consent agreements. Wahlstrom seconded the motion.

Krogman made a secondary motion for clarification purposes. Wahlstrom seconded the motion. Discussion was held. Krogman withdrew his motion.

Cotton called for a vote on the Wordeman motion. **MOTION PASSED** by unanimous vote.

Applications were discussed with the following action taken:

Applicant 1: Krogman made a motion to deny the application. Seconded by Bonde. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Applicant 2 had requested to personally appear before the commission. The time the applicant was scheduled to appear allowed enough time for the commission to move to agenda item 8.

Miller informed the commission the current application process, on new applicants only, has commission staff obtain a credit report. South Dakota is one of a small number of states which still obtain credit reports on applicants. The cost of the credit check is not paid by the applicant so the commission is paying the cost of each credit report. New applicants are required by SDCL 36-21A-151 to submit fingerprints for a state and federal criminal background check and pay the background check fee. Miller recommended the commission discontinue credit checks on new applicants since criminal background checks are performed.

Krogman made a motion to discontinue credit checks on applicants unless deemed necessary by the Executive Director. Seconded by Wahlstrom. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Applicant 2 arrived at the meeting at the agreed time. At 9:00 a.m. the following entered the meeting:

Paul Hegg, Responsible Broker, Hegg Companies, Sioux Falls
Peter Hegg, Broker, Hegg Companies, Sioux Falls
Steve Westra, Chief Operating Officer, Hegg Companies, Sioux Falls
Dan Nelson, Applicant

Hegg, Hegg, Westra, and Nelson exited the meeting at 9:34 a.m.

Bonde made a motion to enter into Executive Session to consult with legal counsel per SDCL 1-25-2 (3). Seconded by Wahlstrom. Cotton called for a vote. **MOTION PASSED** by unanimous vote. The commission entered into executive session at 9:35 a.m.

Cotton called the commission out of executive session at 9:50 a.m.

Hegg, Hegg, Westra, and Nelson re-entered the meeting at 9:51 a.m.

SDREC Compliance Officer Michelle Metzinger entered the meeting at 9:51 a.m.

Bonde made a motion to approve application 2. Seconded by Wordeman. Cotton called a roll call vote:

Wordeman – Aye, Bonde – Aye, Krogman – Aye, Wahlstrom – Aye, Cotton – Aye.
MOTION PASSED.

Hegg, Hegg, Westra and Nelson exited the meeting at 9:52 a.m.

The commission recessed at 9:52 a.m. and reconvened at 10:00 a.m.

Wordeman made a motion to enter into Executive Session to consult with legal counsel per SDCL 1-25-2 (3). Seconded by Krogman. Cotton called for a vote. **MOTION PASSED** by unanimous vote. The commission entered executive session at 10:00 a.m.

Cotton called the commission out of Executive Session at 10:23 a.m.

Complaint 2018-007: Consent agreement with Patricia Schultz, license number 15569, Hot Springs, SD for violation of SDCL 36-21A-3 and ARSD 20:69:10:03.

- a. SCHULTZ shall pay an administrative fine in the amount of \$250.00 to the Commission Office by April 13, 2018

Wahlstrom made a motion to approve the consent agreement. Seconded by Krogman. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Complaint 2018-008: Wordeman made a motion to dismiss the complaint. Seconded by Bonde. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Complaint 2018-009: Bonde made a motion to dismiss the complaint. Seconded by Wordeman. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Complaint 2018-011: Krogman made a motion to approve an Assurance of Voluntary Compliance. Wahlstrom seconded the motion. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Complaint 2018-012: Consent agreement with Karrie Swenson, license number 14252, Chamberlain, SD for violation of SDCL 36-21A-71 (1) (22) (30), 36-21A-130, and 36-21A-140 (2) (5).

- a. SWENSON shall pay an administrative fine in the amount of \$750.00 to the Commission Office within 90 days of the commission signing the agreement; and
- b. SWENSON shall pay for, attend, and successfully complete a minimum 9 hours of education in the areas of limited agency, contract law, and buyer agency. Approved classes are listed on the commission's website as approved education and can be either in classroom or online. Hours do not count toward CE requirements. Hours must be completed within 90 days of the Commission signing the agreement.

Wordeman made a motion to approve the consent agreement. Seconded by Krogman. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Complaint 2018-006: Wahlstrom made a motion to add Wordeman to the investigative committee as the commission representative for complaint 2018-006. Seconded by Krogman. Cotton called for a vote. **MOTION PASSED** by unanimous vote.

Cotton shared a desire brought to him by a licensee pertaining to wind towers or wind farms being added of the Seller's Property Condition Disclosure. Discussion was held with no action taken as the property condition disclosure is prescribed by the South Dakota Legislature.

Jackson informed the commission of wholesaling activity currently being reported by licensees in the Sioux Falls area. Commission staff has been sending unlicensed activity letters to the unlicensed persons as well as the homeowners. Persons who wholesale properties are not exempt from licensure as they meet the definition of real estate broker as defined in SDCL 36-21A-6(6)(11). The commission can file for an injunction in civil court and if the injunction is granted, per SDCL 36-21A-91, the court shall award the commission costs and fees.

Jackson is attending the ARELLO Mid-Year meeting being held April 4-7 in New Orleans, LA. The commission instructed Jackson to speak with other jurisdictions about team regulations and wholesaling activity.

No other business was brought before the commission.

Next Meeting: May 10, 2018 at 1 p.m. in Pierre

Meeting Adjourned 10:55 a.m.