

**NEBRASKA REAL ESTATE COMMISSION**

**August 23, 2012**

**Staybridge Suites**

**Staybridge Room**

**Lincoln, NE**

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**Opening**

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on August 23, 2012, in the Staybridge Room of the Staybridge Suites, located at 2701 Fletcher Avenue in Lincoln, Nebraska. All of the members of the Real Estate Commission were present. Also present were Director Greg Lemon, Deputy Director for Education and Licensing Teresa Hoffman, and Deputy Director for Enforcement Terry Mayrose.

**Notice of Meeting (Adopt Agenda)**

Director Lemon presented a public notice and proofs of publication thereof relating to this meeting, all of which are attached to and made a part of these minutes. Chairperson Gale reported that all Commissioners had been notified of the meeting simultaneously, by mail and e-mail, and that a proposed tentative agenda accompanied the notification.

Chairperson Gale pointed out to those in attendance that a public copy of the materials being used during the meeting were available to the public on the counsel table in the meeting room; that a copy of the Open Meetings Act was posted on the easel located in the northwest corner of the meeting room by the west entrance; and that the procedures followed were in accordance with the Open Meetings Act. Chairperson Gale asked that guests sign the guest list.

Director Lemon noted that no agenda items had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Ptak and seconded by Leisey to adopt the final agenda as presented. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

**Minutes of June 28, 2012**

The minutes of the Commission meeting held on June 28, 2012, were considered. (Note: It was discovered prior to the meeting that the Exhibit for this Agenda Item was incorrect. On the first page, it indicated that Chairperson Gale was absent and excused when, in fact, Chairperson Gale had been in attendance. The Exhibit was corrected for attachment to these minutes.)

After review, a motion was made by Leisey and seconded by Rouch to approve the minutes as corrected. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

**Public Comment**

Chairperson Gale asked the members of the audience if anyone wished to come forward to provide public comment on Commission related business. No audience member indicated a desire to come forward.

## **Receipts and Expenditures Report for June and July**

Director Lemon presented the Receipts and Expenditures Reports for June and July. Copies of said reports are attached to and made a part of these minutes. Director Lemon noted that an explanation page was included in each report.

The cash fund balance as of June 30, 2012, was \$877,516.62, which compared to a cash fund balance of \$398,904.95 on June 30, 2011.

The cash fund balance as of July 31, 2012, was \$818,394.57, which compared to a cash fund balance of \$339,824.34 on July 31, 2011.

After discussion, a motion was made by Leisey and seconded by Ptak to file the June and July Receipts and Expenditures Reports for audit. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

## **Final Renewal Report**

Director Lemon presented the Final Renewal Report. A copy of said report is attached to and made a part of these minutes.

No action was necessary on this report.

## **Fiscal Year 12-13 Monthly Budget Allocations**

Director Lemon presented the monthly budget allocations for Fiscal Year 2012-13. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary on this report.

## **Consider 2013 License Fees**

Director Lemon presented an exhibit in which the Budget and Finance Subcommittee recommended no increase in fees for 2013. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon noted that when the fees were approved last year it was with the expectation that they would not be increased this year. The subcommittee remained comfortable with that plan.

After discussion, a motion was made by Rouch and seconded by Dover to retain the same fees. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

## **Proposed Biennium Budget Request for 2013-2015**

Director Lemon presented the Fiscal Year 2013-2015 Biennium Budget Request Proposal. A copy of said proposal is attached to and made a part of these minutes.

Director Lemon noted that the budget request consisted of continuation funding for the Commission for the next two years with the exception of a request for \$20,000 in each of the next two years for legal fees, and a request of \$20,000 next year for development of a pre-license education class specific to Nebraska law. Director Lemon pointed out that this was a draft of the budget as it would be submitted unless there were changes to be made.

A motion was made by Ptak and seconded by Dover to approve the proposed Biennium Budget as presented. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

### **Specialized Registrations**

#### **Time-Share Registrations - Amendment for ClubWyndham Access Vacation Ownership Plan (Non-Specific Site)**

Director Lemon presented a specialized registration report which included the registration of amendment to time-share registration for ClubWyndham Access Vacation Ownership Plan (Non-Specific Site). A copy of said report is attached to and made a part of these minutes.

A motion was made by Leisey and seconded by Ptak to approve the as presented. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

#### **Nonresident Licenses and Resident Licenses Issued to Persons Holding Licenses in Other Jurisdictions Report**

Deputy Director Hoffman presented for ratification the Nonresident Licenses and Resident Licenses Issued to Persons Holding Licenses in Other Jurisdictions Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Leisey and seconded by Rouch to ratify issuance of the licenses as set forth in the report. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

#### **Examination Report – June and July**

Deputy Director Hoffman presented for ratification the June and July Examination Reports, copies of which are attached to and made a part of these minutes. (Note: It was discovered at the meeting that the Exhibit for this Agenda Item was incorrect. The June Individual Stats for salesperson total number failed percentage was incorrect. The Exhibit was corrected for attachment to these minutes.)

After review, a motion was made by Leisey and seconded by Rouch to ratify the June and July Examination Reports, with the correction to the June report, for the purpose of issuing licenses. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

### **Real Estate Education Matters**

#### **Pre-License Education Instructor Approval**

Deputy Director Hoffman presented for ratification the Pre-License Education Instructor Approval Report, a copy of which is attached to and made a part of these minutes.

#### **Continuing Education Activity Approval**

Deputy Director Hoffman presented for ratification the Continuing Education Activity Approval Report, a copy of which is attached to and made a part of these minutes.

### **Continuing Education Instructor Approval**

Deputy Director Hoffman presented for ratification the Continuing Education Instructor Approval Report, a copy of which is attached to and made a part of these minutes.

### **Continuing Education Activity Significant Change**

Deputy Director Hoffman presented for ratification the Continuing Education Activity Significant Change Report, a copy of which is attached to and made a part of these minutes.

### **Broker-Approved Training Recognition**

Deputy Director Hoffman presented a Broker-Approved Training Recognition Report, a copy of which is attached to and made a part of these minutes. An updated Report was distributed at the meeting and is attached to and made a part of these minutes.

After review, a motion was made by Stange and seconded by Ptak to ratify the five reports. Motion carried with Avery, Dover, Leisey, Ptak, Rouch and Stange voting aye with Gale absent and excused.

### **Pending Sworn Complaints and Investigative Matters**

Deputy Director Mayrose presented a summary report of the pending complaints, which included a list of licensees presently under disciplinary action or on appeal. A copy of said report is attached to and made a part of these minutes.

No action was necessary on this report.

The following sworn complaints and investigative matters were presented to the Commission:

#### **Item A Complaint 2012-017**

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Dover and seconded by Ptak that this complaint be held in abeyance and a new complaint be filed against Respondent per the Staff recommendation. Motion carried with Dover, Ptak, Rouch, Stange and Gale voting aye and with Avery and Leisey voting nay.

#### **Item B Investigative Matter**

Prior to discussion of this matter, Commissioner Leisey recused himself, thereby nullifying any potential conflict of interest.

Deputy Director Mayrose presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Avery and seconded by Dover that a complaint be filed and set for hearing. Motion carried with Avery, Dover, Ptak, Rouch, Stange and Gale voting aye, with Leisey not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

**Item C Investigative Matter**

Deputy Director Mayrose presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Ptak and seconded by Stange that the matter be set for a Show Cause Hearing as to why the Salesperson's real estate license should not be revoked for demonstrating negligence, incompetency, and unworthiness. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

**Item D Complaint 2012-016 – James D. & Trisha A. Neumann vs. Melissa Jarecke**

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Avery and seconded by Stange that the complaint be dismissed without prejudice. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

**Presentation of Stipulation and Consent Orders**

**Complaint 2012-004,  
Aaron Doriani vs. Melissa L. Jarecke and Richard E. Kavan**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2012-004, Aaron Doriani vs. Melissa L. Jarecke and Richard E. Kavan. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Leisey and seconded by Dover to enter into the Order as presented. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

**Complaint 2012-005,  
Annette M. Brandl vs. Tracy Gerald Paulsen**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2012-005, Annette M. Brandl vs. Tracy Gerald Paulsen. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Dover and seconded by Leisey to enter into the Order as presented. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

**Disciplinary Hearings**

There were no disciplinary hearings scheduled to be held at the meeting.

## **Informal Special Appearances**

### **Scott Haber, Potential Applicant**

Director Lemon presented exhibits which included: correspondence regarding Mr. Haber's special appearance; a letter of explanation from Mr. Haber, a summary of charges against Mr. Haber; and character reference letters for Mr. Haber. A copy of said exhibit is attached to and made a part of these minutes. Mr. Haber was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Haber explained the situations regarding his past criminal history.

A motion was made by Stange and seconded by Leisey that Mr. Haber should proceed with having a fingerprint-based criminal history and license application submitted to the Commission. Upon the completion of which he be scheduled for another appearance before the Commission. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

### **Kelby Robert Kraft, Salesperson Applicant**

Director Lemon presented exhibits which included: correspondence regarding Mr. Kraft's special appearance; character reference letters for Mr. Kraft; a letter of explanation from Mr. Kraft, Mr. Kraft's criminal history report; and his salesperson application form. A copy of said exhibit is attached to and made a part of these minutes. Mr. Kraft was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Kraft explained the situations regarding his past criminal history.

After discussion, a motion was made by Dover and seconded by Leisey to allow Mr. Kraft to sit for the salesperson examination after January 2013 and after making proper application with a current background check, license to be issued upon passing. For the first two years of his license, Mr. Kraft must notify any anticipated employing broker of the criminal convictions and the circumstances of the convictions and said broker shall confirm said notification in writing to the Commission prior to the license being placed with said broker. Mr. Kraft must also immediately notify the Commission staff of any new criminal charge, except those charges where there is no possible sentence of jail time, for a period of two years. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

### **Douglas T. Darling, Potential Applicant**

Director Lemon presented exhibits which included: correspondence regarding Mr. Darling's special appearance; a summary of charges against Mr. Darling; a letter of explanation from Mr. Darling; Mr. Darling's National Criminal Records Report completed by SentryLink; and character reference letters for Mr. Darling. A copy of said exhibit is attached to and made a part of these minutes. Mr. Darling was present.

Prior to discussion of this matter, Commissioner Stange recused himself, thereby nullifying any potential conflict of interest.

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Darling explained the situations regarding his past criminal history.

After discussion, a motion was made by Rouch and seconded by Leisey to allow Mr. Darling to sit for the salesperson examination after making proper application and to have a license issued upon passing. Motion carried with Avery, Dover, Leisey, Ptak, Rouch and Gale voting aye, with Stange not participating or voting, having been recused.

### **Jeffrey Sanders, Potential Applicant**

Director Lemon presented exhibits which included: correspondence regarding Mr. Sanders' special appearance; a letter of explanation from Mr. Sanders; a summary of charges against Mr. Sanders; and character reference letters for Mr. Sanders. A copy of said exhibit is attached to and made a part of these minutes. Mr. Sanders was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Sanders explained the situations regarding his past criminal history.

After discussion, a motion was made by Rouch and seconded by Leisey that Mr. Lewis be allowed to sit for the salesperson examination at this time. Motion failed with Leisey and Rouch voting aye, Avery, Dover, Ptak, Stange and Gale voting nay.

After further discussion, a motion was made by Leisey and seconded by Rouch to allow Mr. Sanders, after successful completion of his probation, to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Sanders must immediately notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time for a period of two years after licensing. Motion carried with Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye and Avery voting nay.

### **Michael James Lewis, Salesperson Applicant**

Director Lemon presented exhibits which included: correspondence regarding Mr. Lewis' special appearance; character reference letters for Mr. Lewis; an Order issued by the District Court of Douglas County, Nebraska for Mr. Lewis; Mr. Lewis' criminal history report; and his salesperson application form. A copy of said exhibit is attached to and made a part of these minutes. Mr. Lewis was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Lewis explained the situations regarding his past criminal history.

After discussion, a motion was made by Dover and seconded by Leisey to allow Mr. Lewis to sit for the salesperson examination and to have a license issued upon passing. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

### **Report of Social Media Task Force**

Director Lemon presented a report from the Social Media Task Force regarding the Commission's use of social media. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon noted that the Social Media Task Force, which consisted of Commissioners Dover and Leisey, and Director Lemon, is recommending the use of Facebook and Twitter by the

Commission. Commissioners generally agreed that these would be good tools to reach a wider audience.

After review, a motion was made by Rouch and seconded by Leisey to approve the use of social media by the Commission as presented. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

### **Consideration of Exemption to ARELLO Rules on Certification of Distance Education for Webinars**

Jane Weddle appeared as the new administrator of Larabee School of Real Estate. Ms. Weddle proposed that webinars be allowed to be exempt from ARELLO certification as distance education. Ms. Weddle went over a handout she provided to the Commission, a copy of which is attached to and made a part of these Minutes. Deputy Director Hoffman gave a report on the current availability of continuing education delivered in a distance education format, noting that there did not appear to be a critical shortfall of such options for licensees. After discussion, it was determined that the Education subcommittee would look at Webinars relative to approval requirements and would report back to the Commission.

### **Adopt Vince Leisey's Resolution**

Director Lemon presented a resolution commemorating service on the Commission by Vince Leisey. A copy of said resolution is attached to and made a part of these Minutes.

A motion was made by Dover and seconded by the full Commission that the resolution for Vince Leisey be adopted.

Chairperson Gale noted that it was a great pleasure and honor to serve on the Commission with Vince Leisey for six years and appreciated his service.

Motion carried with Avery, Dover, Ptak, Rouch, Stange and Gale voting aye and with Leisey not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

### **Information Matters**

#### **Trust Account Examination Evaluation Report - Second Quarter 2012**

Director Lemon presented the Trust Account Examination Evaluation Report - Second Quarter 2012. A copy of said report is attached to and made a part of these minutes. An updated Report had been distributed at the meeting and is attached to and made a part of these minutes.

No action was necessary on this report.

#### **Errors and Omissions Loss Report – Second Quarter 2012**

Director Lemon presented the Errors and Omissions Loss Report – Second Quarter 2012. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.



**ARELLO Annual Conference – September 19-23, 2012 -  
Halifax, Nova Scotia, Canada**

Director Lemon explained that the deadline for registration is August 22, 2012, and asked which Commissioners were planning on attending the conference  
No action was necessary on this report.

**Future Meeting Dates**

September 27-28, 2012 - Staybridge Suites, Lincoln

October 18, 2012 – Staybridge Suites, Lincoln

November 15-16, 2012 - Staybridge Suites, Lincoln

**Recesses and Adjournment**

At 10:05 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:15 a.m.

At 12:30 a.m., Chairperson Gale declared a recess for lunch, and reconvened the meeting at 1:20 p.m.

Chairperson Gale was briefly excused from the meeting at 11:30 a.m., and rejoined the meeting at 11:35 a.m.

At 2:43 p.m., there being no further business to come before the Commission, a motion was made by Ptak and seconded by Leisey that the meeting adjourn. Motion carried with Avery, Dover, Leisey, Ptak, Rouch, Stange and Gale voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the August 23, 2012, meeting of the Nebraska Real Estate Commission were available for inspection on September 4, 2012, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,

  
Greg Lemon  
Director

**Guests Signing the Guest List**

Joe Gehrki, CBSHOME Real Estate, Omaha

Herb Freeman, NP Dodge, Omaha

Kristen Anderson, Nebraska REALTORS® Association, Lincoln

Tammy Brookhouser, Nebraska REALTORS® Association, Lincoln

Jane Weddle, Larabee School of Real Estate, Lincoln

