

NEBRASKA REAL ESTATE COMMISSION

September 20, 2018

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on September 20, 2018, 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 Alane Roubal, Deputy Director for Enforcement Duran Cell, and Deputy Director for Licensing Monica Rut.

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 was available 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 Alloway and seconded by Dover to adopt the final agenda as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Minutes of August 16, 2018

The minutes of the Commission meeting held on August 16, 2018, were considered.

After review, a motion was made by Alloway and seconded by Titus to approve the minutes as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus 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 August

Director Lemon presented the Receipts and Expenditures Report for August. A copy of said report is attached to and made a part of these minutes. Director Lemon noted that an explanation page was included on the report.

The cash fund balance as of August 31, 2018, was \$1,410,044.26, which compared to a cash fund balance of \$1,490,460.23 on August 31, 2017.

After discussion, a motion was made by Alloway and seconded by Starman to file the August Receipts and Expenditures Report for audit. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Specialized Registrations

Time-Share Registrations - Amendment for ClubWyndham Access Vacation Ownership Plan

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

A motion was made by Alloway and seconded by Starman to approve the amendment to the registration as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

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

Deputy Director Rut 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 Dover and seconded by Alloway to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Examination Report - August

Deputy Director Roubal presented for ratification the August Examination Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Titus and seconded by Bourne to ratify the August Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

There was discussion regarding broker qualifications. It was the consensus of the Commission to discuss this matter at the next meeting.

Examination Passing Roster

Deputy Director Roubal presented the Examination Passing Roster, a copy of which is attached to and made a part of these minutes.

No action was necessary on this report.

Real Estate Education Matters

Pre-License Education Instructor Approval

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

Pre-License Education Provider/Activity Approval

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

Continuing Education Activity Approval

Deputy Director Roubal 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 Roubal 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 Roubal 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 Provider/Activity Recognition

Deputy Director Roubal presented a Broker-Approved Provider/Training Recognition Report, a copy of which is attached to and made a part of these minutes.

Broker-Approved Training Activity Recognition

Deputy Director Roubal presented a Broker-Approved Training Recognition Report, a copy of which is attached to and made a part of these minutes.

Broker-Approved Training Activity Significant Change

Deputy Director Roubal presented a Broker-Approved Training Significant Change Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Dover and seconded by Titus to ratify the eight reports.

Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Continuing Education Activity Rejection

Deputy Director Roubal presented a Continuing Education Activity Rejection Report, a copy of which is attached to and made a part of these minutes.

No action was necessary on this report.

Pending Sworn Complaints and Investigative Matters

Deputy Director Cell 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 2017-022

Deputy Director Cell 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 Freeman and seconded by Titus that the complaint be held in abeyance until completion of the civil litigation. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

It is the consensus of the Commission that further investigation as discussed, be conducted by the Deputy Director for Enforcement.

Item B Complaint 2017-025 – Jodie Fallon vs. Gerard Allen Divis

Deputy Director Cell 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 Titus and seconded by Freeman that the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Presentation of Stipulation and Consent Orders

Complaint 2017-016, Mark C. & Mary B. Gallagher vs. Rebecca L. Marble

Deputy Director Cell presented a Stipulation and Consent Order in the matter of Complaint 2017-016, Mark C. & Mary B. Gallagher vs. Rebecca L. Marble. A copy of said Order is attached to and made a part of these minutes.

A motion was made by Titus and seconded by Freeman to decline the proposed Stipulation and Consent Order and propose that the Order include a sixty-day suspension, a fine of two-thousand dollars, and three of the six hours of additional continuing education be in the area of ethics.

An amendment was offered by Commissioner Bourne that the suspension be extended from sixty days to six months. After discussion, the amendment was accepted by the mover and the second.

An amendment was offered by the mover and accepted by the second that at least three of the six additional continuing education hours be in ethics and the other three hours to be determined by Director Lemon.

Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Disciplinary Hearings

Complaint SC2017-023 – Commission vs. Matthew Rasmussen

The Hearing regarding Complaint SC2017-023, Commission vs. Matthew Rasmussen was continued at the request of the Respondent's Counsel.

Informal Special Appearances

Terry J. Schneider, Salesperson Applicant

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

Chairperson Gale reviewed the procedure for informal special appearances. Mr. Schneider explained the situations regarding his criminal history.

After discussion, a motion was made by Alloway and seconded by Starman to allow Mr. Schneider to sit for the salesperson examination after making proper application, and to have a license issued upon passing. Mr. Schneider 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. Schneider must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of three years. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Jasmine Jade Jenkins, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. Jenkins' special appearance; a letter of explanation from Ms. Jenkins; character reference letters for Ms. Jenkins; Ms. Jenkins' salesperson application form; trial court cases from the State of Nebraska on Ms. Jenkins' cases; and Ms. Jenkins' criminal history report. A copy of said exhibit is

attached to and made a part of these minutes. Ms. Jenkins' was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Ms. Jenkins distributed an additional letter of explanation to the Commission. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13b1.

Ms. Jenkins' explained the situations regarding her criminal history.

After discussion, a motion was made by Freeman and seconded by Starman to allow Ms. Jenkins to sit for the salesperson examination after making proper application, and to have a license issued upon passing. Ms. Jenkins must notify any anticipated employing broker of the Colorado real estate license revocation and the circumstances of the revocation and said broker shall confirm said notification in writing to the Commission prior to the license being placed with said broker. Ms. Jenkins must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of three years. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Nathan Robert Fish, Salesperson Applicant

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

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Fish distributed an additional letter of explanation and an additional letter of reference. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13c1.

Mr. Fish explained the situations regarding his criminal history.

After discussion, a motion was made by Alloway and seconded by Dover to allow Mr. Fish to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Fish 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. Fish must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of three years. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

David Joseph Carrig, Broker Applicant

Director Lemon presented exhibits which included: correspondence regarding Mr. Carrig's special appearance; a letter of explanation from Mr. Carrig; character reference letters for Mr. Carrig; Mr. Carrig's broker application form; trial court cases from the State of Nebraska on Mr. Carrig's cases; and Mr. Carrig's criminal history report. A copy of said exhibit is attached to and made a part of these minutes. Mr. Carrig was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Carrig explained the situations regarding his criminal history.

A motion was made by Titus and seconded by Freeman that Mr. Carrig not be allowed to sit for the broker examination at this time. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

Consider Revisions to the Investigative Process and Investigative Report Format

Deputy Director Cell presented a memo of proposals for streamlining the complaint process. A copy of said exhibit is attached to and made a part of these minutes.

Deputy Director Cell discussed potential changes as outlined in the memo. Director Lemon explained the expedited process.

There was discussion regarding the time spent by Deputy Director Cell and the various ways to reduce the time spent on investigations. There was discussion regarding various styles of investigative reports and if the disposition reports should be included with the investigative reports.

A motion was made by Freeman and seconded by Titus that in instances where a complaint does not appear to allege a violation of the license act or facts to support such a violation, staff provide Commissioners with a summary investigative report indicating why the matter is outside of the jurisdiction of the Nebraska Real Estate Commission. If it is determined there is a lack of jurisdiction, not enough evidence to prove a violation occurred, or specific allegations of license law violations were not made, then the Commission could dismiss the complaint without sending it out for answer.

After discussion, an amendment was offered by the mover to include in the motion violations of the Commission's Rules and Regulations in addition to the License Act. The amendment was accepted by the second.

Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

It was the consensus of the Commission that an investigative checklist listing documents and disclosures reviewed and compliance items to check related to that evidence be presented for review at the next meeting.

It was the consensus of the Commission that the disposition report and the rationale be included with the green sheets.

Information Matters

ARELLO Annual Conference - September 26-30, 2018 - St. Louis, Missouri

Director Lemon explained that Deputy Director Rut would be attending the conference and asked which Commissioners were planning on attending the conference. Commissioner Starman indicated that she had also signed up to attend the conference.

No action was necessary on this report.

Future Meeting Dates

October 18-19, 2018, Country Inn & Suites, Lincoln
November 15-16, 2018, Staybridge Suites, Lincoln
January 24-25, 2018, Staybridge Suites, Lincoln
February 21-22, 2018, Staybridge Suites, Lincoln

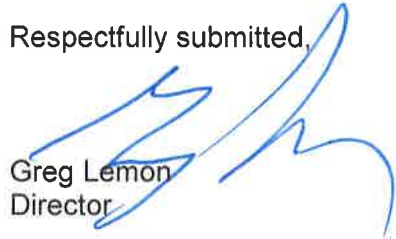
Recesses and Adjournment

At 10:19 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:35 a.m.

At 12:31 p.m., there being no further business to come before the Commission, a motion was made by Titus and seconded by Freeman that the meeting adjourn. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus and Gale voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the September 20, 2018, meeting of the Nebraska Real Estate Commission were available for inspection on October 2, 2018, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

James McCord, Nemaha Valley Board of Realtors, Nebraska City
Jeff Hebb, Nebraska REALTORS® Association, Lincoln
Nikki Zotto, Larabee, Lincoln
Connie Hain, HomeServices, Lincoln