

## NEBRASKA REAL ESTATE COMMISSION

January 21, 2021

### Video Conference

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#### **Opening**

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on January 21, 2021, via video conference. 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 Antwan Montague, and Deputy Director for Licensing Monica Rut.

#### **Notice of Meeting (Adopt Agenda)**

Director Lemon presented a public notice thereof relating to this meeting, which is attached to and made a part of these minutes. Chairperson Evnen 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 Evnen explained that this meeting is being held in accordance with Executive Order No. 2020-036, which allows all governing bodies to meet by videoconference so long as there is made available at such meeting access to members of the public and to members of the media.

Chairperson Evnen indicated to those in attendance that a public copy of the materials being used during the meeting were available on the Commission's website; that a copy of the Open Meetings Act was posted on the Commission's website; and that the procedures followed were in accordance with the Open Meetings Act.

Director Lemon noted that agenda items 9g and 18e had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Starman and seconded by Dohse to adopt the final agenda as presented. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

#### **Minutes of November 19, 2020**

The minutes of the Commission meeting held on November 19, 2020, were considered.

After review, a motion was made by Titus and seconded by Gehrki to approve the minutes as presented. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

#### **Public Comment**

Chairperson Evnen 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.

Director Lemon introduced Paige Polacek, the recently hired Executive Secretary to the Commission. The Commissioners welcomed Ms. Polacek to the Commission staff.

## **Financial Matters**

### **Receipts and Expenditures Report for November and December**

Director Lemon presented the Receipts and Expenditures Reports for November and December. 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 November 30, 2020, was \$1,609,545.38 which compared to a cash fund balance of \$1,657,767.22 on November 30, 2019.

The cash fund balance as of December 31, 2020, was \$1,739,809.96, which compared to a cash fund balance of \$1,842,562.94 on December 31, 2019.

After discussion, a motion was made by Gehrki and seconded by Ritter to file the November and December Receipts and Expenditures Reports for audit. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Renewal Report**

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

No action was necessary on this report

## **Specialized Registrations**

### **Time-Share Registration – Marriott Vacation Club Destinations**

Director Lemon presented a specialized registrations report which included the time-share registration for Marriott Vacation Club Destinations. A copy of said report is attached to and made a part of these minutes.

### **Time-Share Registration Amendment for ClubWyndham Access Vacation Ownership Plan**

Director Lemon presented a specialized registrations report which included the registration of amendment to the 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 Starman and seconded by Gehrki to approve the registrations as presented. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen 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 Titus and seconded by Ritter to ratify issuance of the licenses as set forth in the report. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

## **Examination Report – November and December**

Deputy Director Roubal presented for ratification the November and December Examination Reports, copies of which are attached to and made a part of these minutes.

After review, a motion was made by Dohse and seconded by Ritter to ratify the November and December Examination Reports for the purpose of issuing licenses. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

## **Examination Passing Roster**

Deputy Director Roubal presented the Examination Passing Rosters for November and December, copies of which are attached to and made a part of these minutes.

No action was necessary on this report.

## **Real Estate Education Matters**

### **Post-License Education Course Approval**

Deputy Director Roubal presented for ratification the Post-License Education 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.

### **Commission-Approved Training Activity Recognition**

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

After review, a motion was made by Starman and seconded by Ritter to ratify the three reports. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Minutes from Education Advisory Group Meeting – December 2020**

Deputy Director Roubal presented the Minutes from the Education Advisory Group Meeting-December 2020, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal explained some of the issues discussed during the meeting.

No action was necessary on this report.

### **Minutes from Education Advisory Group Meeting – January 2021**

Deputy Director Roubal presented the Minutes from the Education Advisory Group Meeting-January 2021, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal explained some of the issues discussed during the meeting.

No action was necessary on this report.

### **Fourth Quarter PSI School Reports**

Deputy Director Roubal presented the PSI Review of Examination Performance Reports for comparison for the period of October 1, 2020 through December 31, 2020, copies of which are attached to and made a part of these minutes.

Deputy Director Roubal explained each of the reports relating to the national tests and the school reports.

No action was necessary on this report.

### **Consider Allowing Safety Courses for Continuing Education Credit**

Director Lemon explained that in the past, continuing education courses were approved based upon content which was focused on the benefit and protection of the public, and that courses focusing on licensee safety had been allowed as Commission approved training and not as Continuing Education. The question had been raised as to whether licensee safety course meet the criteria for continuing education approval.

Ryan Gibson was present to speak regarding this issue. He indicated that it is in the interest of the public for licensees to have safety training and for the course to receive the continuing education designation. A licensee is also part of the public, and the public does not want a violent crime to occur on their property potentially resulting in a loss or a civil suit.

There was discussion regarding how often the course would be required should it become a continuing education course which may solidify the desire to take the course. There was also discussion regarding internal company policies which could allow for additional courses if desired.

Nate Dodge and Mike Riedmann were also present to discuss this topic. There was discussion that this would be core competency training for employees and highly suggested for residential agents on an annual basis. There was also discussion there has been an increased emphasis on safety in the industry over the last several years.

There was discussion if safety courses would be fall under a general continuing education course or be considered as designated subject matter (R course). There was also discussion regarding the seller property condition disclosure statement and while there are no legal requirements to disclose past crimes on the property, many felt it was prudent to protect against civil litigation.

A motion was made by Gehrki and seconded by Starman that the Director and Commission Staff present proposed policy changes for consideration relative to adding licensee safety as a continuing education course or courses. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

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

Deputy Director Montague 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 Investigative Matter A**

Deputy Director Montague presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Ritter and seconded by Dohse that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report.

There was discussion regarding the non-disclosure of prior convictions on the renewal form as required.

An amendment was made by Ritter to add disclosure violations to the complaint, which was accepted by the second.

Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

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

Deputy Director Montague presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Bourne and seconded by Titus that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

**Item C Investigative Matter C**

Deputy Director Montague presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Gehrki and seconded by Dohse that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

**Item D Investigative Matter D (Leslie Petersen MATTER)**

Deputy Director Montague presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Dohse and seconded by Ritter that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

**ITEM E 2019-033 Complaint 2019-033 – Rober W. Vouk vs. Gregory Allen Johnson**

Deputy Director Montague indicated that this complaint was held in abeyance pending the repayment of the funds by the Respondent and a special trust account audit. Since the Respondent had completed the requirements, Mr. Montague asked that this matter be dismissed without prejudice.

A motion was made by Titus and seconded by Starman that Complaint 2019-033 be dismissed without prejudice. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

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**Presentation of Stipulation and Consent Orders**

**Complaint 2020-034,  
Commission vs. Michele Torrence**

Director Lemon presented a Stipulation and Consent Order in the matter of Complaint 2020-034, Commission vs. Michele Torrence. A copy of said Order is attached to and made a part of these minutes.

A motion was made by Ritter and seconded by Starman to decline the proposed Stipulation and Consent Order. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

**Disciplinary Hearings**

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

## **Informal Special Appearances**

### **Amber Michelle Cole, Salesperson Applicant**

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Ms. Cole explained the situations regarding her criminal history.

A motion was made by Titus and seconded by Bourne that Ms. Cole not be allowed to sit for the salesperson examination at this time. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Abraham Garcia-Calderon, Salesperson Applicant**

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Garcia-Calderon explained the situations regarding his criminal history.

After discussion, a motion was made by Ritter and seconded by Gehrki to allow Mr. Garcia-Calderon to sit for the salesperson examination after making proper application and to have a license issued upon passing.

After further discussion, an amendment was offered by Ritter that Mr. Garcia-Calderon must also 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. Garcia-Calderon 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 five years. The amendment was accepted by the second.

Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

## **Review and Approval of Travel to 2021 Regularly Attended Meetings**

Deputy Director Rut presented an exhibit regarding the estimated costs of Commissioners and staff participating in regularly-attended meetings in 2021. A copy of said exhibit is 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 return travel month of the Mid-year ARELLO meeting was

set forth as "May" when, in fact, the month should have been "April". The Exhibit was corrected for attachment to these minutes.)

After discussion, a motion was made by Gehrki and seconded by Dohse to approve the reimbursement of expenditures for Commissioners and staff who attend the meetings set forth in the exhibit. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Annual Review and Approval of Procedures and Cycle for Trust Account Examinations**

Director Lemon presented a reference copy of the Commission's Approved Procedures and Cycle for Trust Account Examinations. A copy of said exhibit is attached to and made a part of these minutes. Director Lemon noted minor rewording of the document to reflect the recent enactment of trust account waiver provisions for designated brokers.

After discussion, a motion was made by Starman and seconded by Titus to approve the exhibit as presented. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Consider Approval of Special Assistant Attorneys General Appointment**

Director Lemon presented a letter from the Attorney General's Office appointing Adam Prochaska and Chris Heinrich as Special Assistant Attorneys General for the Nebraska Real Estate Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon noted that Mr. Heinrich's and Mr. Prochaska's appointments expired on December 31, 2021.

A motion was made by Gehrki and seconded by Dohse to authorize Director Lemon to ratify the appointment by the Attorney General and utilize the services of the Special Assistant Attorneys General pursuant to any existing or future memorandums of understanding effective for the time period of their appointment. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Draft Regulations for Synchronous Education Delivery**

Director Lemon presented an exhibit of draft amendments to Nebraska Administrative Code Title 299, Chapters 1 and 7 relating to pre-license and continuing education to codify and provide procedures for the ongoing use of synchronous education via electronic means. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon summarized the contents of the exhibit, further explained what would be considered synchronous education delivery, and indicated that synchronous delivery has been an effective tool to safely provide real estate courses during the pandemic and would provide good mechanism to serve those in greater Nebraska now and in the future. The criteria contained in this exhibit involves several changes, such as reporting of pre-license education verification lists to the Commission within 10 days. This change would also provide standards for participation and for educators. This would require changes to the Rules and Regulations. Deputy Director for Education Roubal added that the advisory group responded in a positive fashion and are behind these proposed changes. There was discussion regarding the positive enhancements being proposed.



After discussion, a motion was made by Dohse and seconded by Starman to adopt the draft regulations and authorize the Director to proceed with the administrative adoption process for these changes. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Legislative Matters**

**LB 94** – Director Lemon presented Legislative Bill 94 as introduced to the Legislature. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon reported that this bill was introduced by Senator Hansen and would prohibit invalidation of certain online notarial acts performed under Governor's Executive Order.

A motion was made by Starman and seconded by Dohse that the Commission support this bill in the form of a letter to the Committee. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

**LB 112** - Director Lemon presented Legislative Bill 112 as introduced to the Legislature. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon reported that this bill was introduced by Senator Albrecht and would require members of the public to be allowed to speak at each meeting submit to the Open Meetings Act. He explained that the Commission is currently doing this under Agenda item 4 and while this would not change the Agenda, it would change the Open Meetings Act.

A motion was made by Starman and seconded by Ritter that the Commission support this bill in the form of a letter to the Committee. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

**LB 196** - Director Lemon presented Legislative Bill 196 as introduced to the Legislature. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon reported that this bill was introduced by Senator Vargas and would prohibit discrimination based on lawful source of income under the Nebraska Fair Housing Act.

It was the consensus of the Commission to not take a position on this bill.

**LB 263** - Director Lemon presented Legislative Bill 263 as introduced to the Legislature. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon reported that this bill was introduced by Senator Briese and would require occupational boards to issue licenses based on credentials or work experience in another jurisdiction. He explained that this is a blanket attempt to regulate and treat all professions the same for purposes of reciprocal licensing, and that it did not recognize the differences in laws and standards regulating each profession.

A motion was made by Ritter and seconded by Titus that Director Lemon testify in opposition of this bill. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

**LB 423** - Director Lemon presented Legislative Bill 423 as introduced to the Legislature. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon reported that this bill was introduced by Senator Lathrop and would require registration of home inspectors with the Secretary of State's office. He indicated that Arla Meyer was present to speak regarding this issue.

Ms. Meyer explained that this bill had been drafted by the Nebraska REALTORS® Association due to many concerns and complaints regarding home inspectors. This bill would require the home inspectors to go through a registration with the Secretary of State's office rather than regulations. The bill would require an annual licensing fee and those registered must also have errors and omissions insurance. She further explained that after many discussions with the Secretary of State's office, there would be a list of registered home inspectors and the home inspector designation obtained. To allow for software changes to be made, this bill has been drafted with a 2023 effective date.

There was discussion regarding the home inspectors or their associations' reactions to this proposed bill. Ms. Meyer indicated that this bill was drafted to protect the consumer.

Chairperson Evnen noted that there would be a few suggested amendments to the bill as it was currently presented.

A motion was made by Gehrki and seconded by Ritter that the Commission support this bill.

An amendment was offered by Gehrki that Director Lemon testify in support of this bill since this had been worked on for many years. The amendment was accepted by the second.

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Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Information Matters**

#### **2020-2021 Objectives – Second Quarter 2020**

Director Lemon presented an exhibit regarding the 2020-2021 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the progress of each of the objectives.

No action was necessary on this report.

#### **Errors and Omissions Loss Report – Fourth Quarter 2020**

Director Lemon presented the Errors and Omissions Loss Report – Fourth Quarter 2020. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

## **Consumer Guide to Buying and Selling a Home**

Director Lemon presented the new updated Consumer Guide to Buying and Selling a Home. He indicated that it had recently been printed and published on the Commissions website. Printed copies are available at no charge from the Commissions office upon request.

No action was necessary on this report.

### **Future Meeting Dates**

February 18-19, 2021 – Country Inn and Suites, Lincoln

March 18-19 2021 - Country Inn and Suites, Lincoln

April 22-23, 2021 - Country Inn and Suites, Lincoln

May 20-21, 2021 - Country Inn and Suites, Lincoln

June 17-18, 2021 - Country Inn and Suites, Lincoln

### **Recesses and Adjournment**

At 10:34 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:45 a.m.

At 11:55 a.m., there being no further business to come before the Commission, the Chairperson declared the meeting adjourned.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the January 21, 2021, meeting of the Nebraska Real Estate Commission were available for inspection on January 27, 2021, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon  
Director

### **Guests Signing the Guest List**

Jill Anderson, NP Dodge Real Estate Sales Inc, Omaha

Tammy Brookhouser, Nebraska REALTORS® Association, Lincoln

Christie Bevington, Nebraska REALTORS® Association, Lincoln

Charles Chadwick, CNC Realty, Omaha

Ryan Gibson, NP Dodge Real Estate Sales Inc, Omaha

Patrick Hybl, Lincoln

Virginia Maceo – Modern Real Estate, Lincoln

Tyler Bebout - Modern Real Estate, Lincoln

Carrie Marquis-Gavinger - Nebraska REALTORS® Association, Lincoln

Craig Larabee – Modern Real Estate, Lincoln

Nate Dodge – NP Dodge Real Estate Sales Inc, Omaha

Michael Riedmann – NP Dodge Real Estate Sales Inc, Omaha

Arla Meyer - Nebraska Realty, Lincoln

