

NEBRASKA REAL ESTATE COMMISSION

October 20, 2022

Country Inn & Suites

Omaha Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 8:32 a.m. on October 20, 2022, in the Omaha Room of the Country Inn & Suites, located at 5353 N 27th Street in Lincoln, Nebraska. All of the members of the Real Estate Commission were present. Also present were Director Greg Lemon, Deputy Director for Education Mary Daily, Deputy Director for Enforcement Samantha Lowery, and Deputy Director for Licensing Monica Rut. John Weis, Special Assistant Attorney General and Counsel to the Commission, was present for the Freeman and Hancock Hearings.

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 pointed out to those in attendance that a public copy of the materials being used during the meeting were 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 southeast corner of the meeting room by the south entrance; and that the procedures followed were in accordance with the Open Meetings Act. Chairperson Evnen asked that guests sign the guest list.

Director Lemon noted that agenda items 9e, 11a and 19 had been added since the tentative agenda was mailed to the Commissioners.

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

Minutes of September 15, 2022

The minutes of the Commission meeting held on September 15, 2022, were considered.

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

Financial Matters

Receipts and Expenditures Report for September

Director Lemon presented the Receipts and Expenditures Report for September. 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 September 30, 2022, was \$1,441,583.45, which compared to a cash fund balance of \$1,206,781.10 on September 30, 2021.

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

Specialized Registrations

Time-Share Registration - Amendment for Marriott Vacation Club Destinations

Director Lemon presented a specialized registrations report which included the registration of amendment to 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 – The Villas at Disneyland Hotel

Director Lemon presented a specialized registrations report which included the time-share registration for The Villas at Disneyland Hotel. A copy of said report is attached to and made a part of these minutes.

A motion was made by Ritter and seconded by Gehrki to approve the registration and the amendment to the registration as presented. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman 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 Starman and seconded by Gehrki to ratify issuance of the licenses as set forth in the report. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

License Statistic Report for September

Deputy Director Rut presented the License Statistic Report for the month of March, a copy of which is attached to and made a part of these minutes. (Note: It was discovered prior to the meeting that the Exhibit for this Agenda Item was incorrect. The last column containing data was August 2022, when in fact, the September 2022 data for the September 2022 report should

have been displayed in the last column on the page. The Exhibit was corrected for attachment to these minutes.)

No action was necessary on this report.

Examination Report – September

Director Lemon introduced Mary Daily, the new Deputy Director for Education at the Commission office. The Commissioners welcomed Ms. Daily to the Commission staff.

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

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

Examination Passing Roster

Deputy Director Daily 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.

PSI Third Quarter School Reports

Deputy Director Daily presented the PSI Review of Examination Performance Reports for comparison for the period of July 1, 2022 through September 30, 2022, copies of which are attached to and made a part of these minutes.

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

No action was necessary on this report.

Real Estate Education Matters

Continuing Education Provider/Activity Approval

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

Continuing Education Activity Approval

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

Commission-Approved Training Activity Recognition

Deputy Director Daily 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 Dohse to ratify the four reports. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

Minutes from Education Advisory Group – Third Quarter

Director Lemon presented the Minutes from the Education Advisory Group-Third Quarter, a copy of which is attached to and made a part of these minutes.

Director Lemon reviewed and summarized the Education Advisory Group meeting minutes. He explained that there was discussion regarding reviewing future renewal cycles of courses, instructors, and schools to sync the requirements to better assist the Commission staff and the providers. He also explained that designations were reviewed since there are limited property management content and would add to the offering unless otherwise instructed by the Commissioners.

Commissioner Dohse explained that he felt the Education Advisory Group was important and wanted to ensure that the group meet on a regular basis and the minutes continue to be reported to the Commission for review.

There was discussion regarding the instructor approval of many education courses offered by a provider and felt it would be worth discussing in the future.

No action was necessary on this report.

Pending Sworn Complaints and Investigative Matters

Deputy Director Lowery 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 2022-015

Deputy Director Lowery 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 Ritter and seconded by Starman that this complaint be amended and set for hearing against the Respondent per the Staff recommendation. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

Item B Complaint 2021-011

Deputy Director Lowery 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 Gehrki and seconded by Dohse that this complaint be held in abeyance pending the resolution of the civil proceeding. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

Item C Complaint 2020-023

Deputy Director Lowery 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 Dohse and seconded by Starman that this complaint be amended and set for hearing against the Respondent per the Staff recommendation. Motion carried with Bourne, Dohse, Gehrki, Ritter, Starman, and Evnen voting aye and with Post voting nay.

Presentation of Stipulation and Consent Orders

**Complaint 2022-013,
Commission v. Jay Lerner**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2022-013, Commission v. Jay Lerner. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Ritter and seconded by Bourne to enter into the Order as presented. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

Disciplinary Hearings

Complaint 2022-010 – Real Estate Commission of the State of Nebraska vs. Daniel Freeman

A Hearing was held on October 20, at 10:30 a.m., in the matter of Complaint 2022-010, Real Estate Commission of the State of Nebraska vs. Daniel Freeman. John Weis, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondents Daniel Freeman was present and represented by Counsel Thomas Anderson of Omaha.

Commissioner Ritter recused herself from participating in this matter, thereby nullifying any potential conflict of interest.

Counsels Weis and Anderson jointly offered five Exhibits, all of which were received by Chairperson Evnen.

After Opening Statements, Counsel Weis called Samantha Lowery and Daniel Freeman.

After closing arguments had been presented, Chairperson Evnen declared the Hearing concluded and gathered the original exhibits.

The Commission deliberated on the matters adduced at hearing.

At 11:39 p.m., a motion was made by Gehrki and seconded by Starman to go into closed session to deliberate matters and to protect the reputation of Mr. Freeman. Motion carried with Bourne, Dohse, Gehrki, Post, Starman and Evnen voting aye, with Ritter not participating or voting, having recused herself, thereby nullifying any potential conflict of interest.

At 12:03 p.m., a motion was made by Gehrki and seconded by Starman to reconvene in open session. Motion carried with Bourne, Dohse, Gehrki, Post, Starman and Evnen voting aye, with Ritter not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

A motion was made by Evnen and seconded by Gehrki in Complaint 2022-010, that Daniel Alfred Freeman violated Neb. Rev. Stat. §§ 81-885.24(18) and 81-885.24(29). Motion carried with Bourne, Dohse, Gehrki, Post, Starman, and Evnen voting aye, with Ritter not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

Chairperson Evnen opened the past disciplinary action envelope. It showed no prior disciplinary action against the Respondent.

The Commissioners then discussed the penalty to be assessed.

A motion was made by Evnen and seconded by Dohse in Complaint 2022-010, Daniel Alfred Freeman receive a one year license suspension with thirty days served and the remaining stayed and served on probation, three hours of additional continuing education in the area of license law to be completed within 180 days, a civil fine of one-thousand five hundred dollars within ninety days, also under Nebraska Revised Statutes Section 84-914(1) and Title 305 Nebraska Administrative Code, Chapter 4-007.05, to pay the costs of the appearance fee by the court reporter, and any and all witness fees, including mileage and the cost of serving any witness within ninety days. Motion carried with Bourne, Dohse, Gehrki, Post, Starman, and Evnen voting aye, with Ritter not participating or voting, having recused herself, thereby nullifying any potential conflict of interest.

Chairperson Evnen directed Counsel Weis to prepare the Order.

Chairperson Evnen announced that all exhibits related to this hearing would be retained in the Commission office.

The Hearing was adjourned at 12:07 p.m.

Complaint 2022-001 – Susan Marie Hancock vs. Shaun Paul Hancock

A Hearing was held on October 20, at 1:30 p.m., in the matter of Complaint 2022-001, Susan Marie Hancock vs. Shaun Paul Hancock. John Weis, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondent Shaun Paul Hancock

was not present or represented by counsel.

After Opening Statements, Counsel Weis offered thirty-four Exhibits. Counsel Weis called Samantha Lowery and Susan Hancock as witnesses.

After closing arguments had been presented, Chairperson Evnen declared the Hearing concluded and gathered the original exhibits.

The Commission deliberated on the matters adduced at hearing.

At 2:07 p.m., a motion was made by Gehrki and seconded by Ritter to go into closed session to deliberate matters and to protect the reputation of Mr. Hancock. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

At 2:14 p.m., a motion was made by Gehrki and seconded by Starman to reconvene in open session. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

A motion was made by Evnen and seconded by Starman in Complaint 2022-001, that Shaun Paul Hancock violated Neb. Rev. Stat. §§ 81-885.24(22) and 81-885.24(29). Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

Chairperson Evnen opened the past disciplinary action envelope. It showed no prior disciplinary action against the Respondent.

The Commissioners then discussed the penalty to be assessed.

A motion was made by Evnen and seconded by Dohse in Complaint 2022-001, that Shaun Paul Hancock receive a license revocation. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

Chairperson Evnen directed Counsel Weis to prepare the Order.

Chairperson Evnen indicated as a part of the Order in this matter, the Respondent is required, under Nebraska Revised Statutes Section 84-914(1) and Title 305 Nebraska Administrative Code, Chapter 4-007.05, to pay the costs of the appearance fee by the court reporter, and any and all witness fees, including mileage and the cost of serving any witness. The Respondent will be billed by the Commission Office, or the amount may be specified in the Order, and will have thirty days from receipt of the costs to totally reimburse the Commission.

Chairperson Evnen announced that all exhibits related to this hearing would be retained in the Commission office.

The Hearing was adjourned at 2:17 p.m.

**Petition for Review Hearing on
P2022-001, Scott Lawrence Mausbach vs. Commission**

The Petition for Review Hearing regarding Complaint P2022-001, Scott Lawrence Mausbach vs. Commission was continued

Informal Special Appearances

Jason Lee Carl, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Carl explained the situations regarding his criminal history.

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

Commissioner Starman offered an amendment that Mr. Carl must also notify his designated broker and 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 two years.

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

Michael I. Korzeniowski, Non-Resident Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Korzeniowski explained the situations regarding his criminal history.

After discussion, a motion was made by Ritter and seconded by Starman to allow Mr. Korzeniowski to receive a non-resident salesperson license after making proper application and to have a license issued.

Motion failed with Ritter, Starman and Gehrki voting aye, and with Bourne, Dohse, Post and Evnen voting nay.

Mason James Schramm, Non-Resident Designated Broker Applicant – Cease and Desist Order

Director Lemon presented exhibits which included: correspondence regarding Mr. Schramm's special appearance; a letter of explanation from Mr. Schramm; a copy of CD 2022-017, Cease and Desist Order issued to Mr. Schramm in August 2022; a certification of license history from the South Dakota Real Estate Commission for Mr. Schramm; a copy of the South Dakota

Department of Labor and Regulation Complaint & Consent Agreement against Mr. Schramm, printed information from the NREC Database; South Dakota Dept. of Labor & Regulation licensee roster for Mr. Schramm; and Mr. Schramm's broker application form. A copy of said exhibit is attached to and made a part of these minutes. Mr. Schramm was present via telephone conference.

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Schramm distributed a letter regarding the limited liability company. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13c1.

Mr. Schramm explained the situations regarding his criminal history.

After discussion, a motion was made by Ritter and seconded by Schramm to allow Mr. Schramm to receive a non-resident salesperson license after making proper application and to have a license issued. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

2022-2023 Objectives – Quarterly Report

Director Lemon presented an exhibit regarding the 2022-2023 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the progress on the objectives.

No action was necessary on this report.

Authorize Entering Into Memorandum of Understanding with Newly Appointed Special Assistant Attorney General

Director Lemon presented a letter for newly appointed Special Assistant Attorneys General, John P. Weis. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon requested authority to enter into memorandum of understanding with the newly appointed Special Assistant Attorneys General, John P Weis.

Director Lemon indicated that due to Adam Prohaska's departure, there was a need to have a new attorney appointed as Special Assistant Attorney General. He needed the authority to enter into a Memorandum of Understanding with the new appointee.

A motion was made by Dohse and seconded by Bourne to authorize Director Lemon to enter into memorandum of understanding with the newly appointed Special Assistant Attorney General. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

Consider 2023 Draft Legislation

Commission District Amendment/Service of Process

Director Lemon presented an exhibit of the proposed legislation to amend the Commission's districts and service of process.

Director Lemon explained the changes as reflected in the exhibit. He also detailed the service of process changes to allow for other options. We would like to provide this to the Nebraska Realtors Association for further review.

Repeal Membership Campground Registration

Director Lemon presented an exhibit of the proposed legislation to eliminate registration requirements and a penalty under the Membership Campground Act, to repeal certain sections and harmonize provisions. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon reviewed the proposed changes to the membership campground act and explained that these changes would allow for the removal of the registration process, not the provisions of the act that protects the public.

After discussion, the Commission determined by consensus that these issues should be forwarded to the Nebraska REALTORS® Association for review and a final determination made at the November Commission meeting.

Consider Proposal on Additional Fair Housing Education Requirements

Director Lemon presented a letter of explanation from Nebraska REALTORS® Association requesting a requirement be added for three hours of Fair Housing Training. A copy of said resolution is attached to and made a part of these Minutes. Connie Burleigh and Ryan Swinney, with the Nebraska REALTORS® Association, were present to discuss the requirement and answer any questions regarding this request.

Ms. Burleigh explained the proposed changes as presented in the exhibit which allow for three of the six hours in "R" designated subject matter, to be in the subject of fair housing. Mr. Swinney noted that the recommendation initially came from the National Association of Realtors.

Director Lemon explained that the designated subject matter education requirement ("R" requirement), explaining that the R requirement contains several approved subject matters including fair housing. He further explained that the Education Advisory Committee met and discussed this matter. It was their recommendation that the requirement could be better addressed as a requirement at the state or local level of the Nebraska REALTORS® Association.

There was further discussion that this change may not rise to the level of changing the education requirements at this time to allow for other important topics to also be taken, such as licensee safety.

No action was necessary with regard to this matter.

Information Matters

Errors and Omissions Loss Report – Third Quarter 2022

Director Lemon presented the Errors and Omissions Loss Report – Third Quarter 2022. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

Nebraska Realtor's Association Recommendations-LB892 Implementation

Director Lemon presented a letter of recommendation from Nebraska REALTORS® Association regarding the implementation of LB892. A copy of said resolution is attached to and made a part of these Minutes. Ryan Swinney, with the Nebraska REALTORS® Association, was present to discuss the requirement and answer any questions regarding this request.

Director Lemon explained that the Commission had appointed a subcommittee that had been working with the implementation of LB892. He noted that the subcommittee provided recommendations to the Nebraska REALTORS® Association and this exhibit being presented was a recommendation back from the Nebraska REALTORS® Association. He further explained that this recommendation was recently received, and the subcommittee had not had a chance to review and discuss it at this time. He suggested that the subcommittee review, discuss and bring further recommendations back to the Commission for review at a future meeting.

It was the consensus of the Commission to allow the subcommittee to review this matter at a future meeting.

Future Meeting Dates

November 17-18, 2022 - Country Inn and Suites, Lincoln
January 19-20, 2023 - Country Inn and Suites, Lincoln
February 16-17, 2023 - Country Inn and Suites, Lincoln
March 16-17, 2023 - Country Inn and Suites, Lincoln
April 20-21, 2023 - TBA
May 18-19, 2023 - TBA
June 15-16, 2023 – TBA

Recesses and Adjournment

At 9:49 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 9:58 a.m.

At 10:24 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:41 a.m.

At 12:12 p.m., Chairperson Evnen declared a recess for lunch, and reconvened the meeting at 1:00 p.m.

At 1:21 p.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 1:29 p.m.

At 2:18 p.m., there being no further business to come before the Commission, a motion was made by Gehrki and seconded by Ritter that the meeting adjourn. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the October 20, 2022, meeting of the Nebraska Real Estate Commission were available for inspection on October 25, 2022, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,


Greg Lemon
Director

Guests Signing the Guest List

Ashlee Hendrickson, Nebraska REALTORS® Association, Lincoln
Leighun Brabec, Larabee School, Lincoln
Kim Zwiener, Sellstate Empire, Lincoln
Connie Burleigh, CJ Burleigh Real Estate, Lincoln
Ryan Swinney, Nebraska REALTORS® Association, Lincoln