

NEBRASKA REAL ESTATE COMMISSION

November 9, 2023

Graduate Lincoln

Osborne Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on November 9, 2023, in the Osborne Room of the Graduate Lincoln, located at 141 N 9th Street in Lincoln, Nebraska. All of the members of the Real Estate Commission were present. Also present were Director Greg Lemon, Deputy Director for Enforcement Samantha Lowery, 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 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 east 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 item 11h had been added since the tentative agenda was mailed to the Commissioners.

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

Minutes of October 12, 2023

The minutes of the Commission meeting held on October 12, 2023, were considered.

After review, a motion was made by Peter and seconded by Gehrki to approve the minutes as presented. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, 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.

Chairperson Evnen welcomed the legislative fiscal analyst Eric Kasik and thanked him for attending the meeting.

Receipts and Expenditures Report for October

Director Lemon presented the Receipts and Expenditures Report for October. 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 October 31, 2022, was \$1,456,796.64, which compared to a cash fund balance of \$1,462,379.25 on October 31, 2023.

After discussion, a motion was made by Gehrki and seconded by Ritter to file the October Receipts and Expenditures Report for audit. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Specialized Registrations

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

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

License Statistic Report for October

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.

No action was necessary on this report.

Examination Report - October

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

After review, a motion was made by Ritter and seconded by Gehrki to ratify the October Examination Report for the purpose of issuing licenses. Motion carried with Burleigh, Dohse,

Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Examination Passing Roster

Deputy Director Rut 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

Continuing Education Provider/Activity Approval

Director Lemon 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

Director Lemon 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

Director Lemon 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

Director Lemon 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 Gehrki and seconded by Ritter to ratify the four reports. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

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 Investigative Report

Deputy Director Lowery 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 Gehrki 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 Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Item B Complaint 2023-034 – Craig Foster vs. Justin Riviera, Christian Jensen, and Michael Earl

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 Geiser and seconded by Gehrki that the complaint be dismissed without prejudice.

Commissioner Ritter offered an amendment that a letter of admonishment be sent to the Respondents. The amendment was accepted by the mover and the second.

Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Item C Investigative Report

Deputy Director Lowery presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Evnen and seconded by Dohse that this matter be tabled for additional investigation. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Presentation of Stipulation and Consent Orders

**Complaint 2022-012,
Mary Ahern v. Robert Lawrence Cerveny**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2022-012, Mary Ahern vs. Robert Lawrence Cerveny. 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 Burleigh to enter into the Order as presented. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

**Complaint 2023-021,
Commission v. Austin Reed Yurth**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2023-021, Commission vs. Austin Reed Yurth. 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 Peter to enter into the Order as presented. Motion carried with Burleigh, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye, with Dohse voting nay.

**Complaint 2023-006,
Commission v. Megan Frances Ahern**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2023-006, Commission vs. Megan Frances Ahern. A copy of said Order is attached to and made a part of these minutes.

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

**Complaint 2023-006,
Commission v. Jeffrey Morgan Ahern**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2023-006, Commission vs. Jeffrey Morgan Ahern. A copy of said Order is attached to and made a part of these minutes.

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

**Complaint 2023-026,
Commission v. Hunter R. Koch**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2023-026, Commission v. Hunter R. Koch. A copy of said Order is attached to and made a part of these minutes.

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

**Complaint 2023-025,
Jackie Lunzmann v. Lori K. Kalin**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2023-025, Jackie Lunzmann v. Lori K. Kalin. A copy of said Order is attached to and made a part of these minutes.

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

**Complaint 2022-044,
Kevin & Rebecca Pray v. Anthony Nelson Terp**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2022-044, Kevin & Rebecca Pray v. Anthony Nelson Terp. 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 Gehrki to enter into the Order as presented. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

**Complaint 2022-044,
Kevin & Rebecca Pray v. Karie Lynn Milford**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2022-044, Kevin & Rebecca Pray v. Karie Lynn Milford. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Peter and seconded by Burleigh to enter into the Order as presented. Motion carried with Burleigh, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye, and with Dohse voting nay.

Disciplinary Hearings

Complaint 2022-036 – Commission v. Mark Douglas Hart & Bridget Ann Olsen

The Hearing regarding Complaint 2022-036, Mark Hart & Bridget Olsen was continued.

Complaint 2022-043 – Commission v. Justin Lewis Shanahan

The Hearing regarding Complaint 2022-043, Commission v. Justin Lewis Shanahan was continued.

Informal Special Appearances

Julianne Renee Mott, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Ms. Mott explained the situations regarding her criminal history.

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

Commissioner Gehrki offered an amendment that Ms. Mott 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. She must attend an AA meeting once a week and verification of her attendance must be submitted to the Commission office quarterly for a period of three years. Ms. Mott 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. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Liska Smith, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Ms. Smith explained the situations regarding her criminal history.

After discussion, a motion was made by Dohse and seconded by Gehrki to allow Ms. Smith to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Smith must pay for and take an alcohol and drug test every six months, on the date and with the provider to be prescribed by the Commission, for a period of two years. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Givawn Vasser, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Vasser explained the situations regarding his criminal history.

A motion was made by Peter and seconded by Dohse that Mr. Vasser not be allowed to sit for the salesperson examination at this time. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Yolymiler Diaz-Guillen, License Recognition Broker Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Diaz-Guillen distributed a list of past charges as provided by the Circuit and County Courts of the Eleventh Judicial Circuit of Florida in and for Miami Dade County. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13d1.

Mr. Diaz explained the situations regarding his criminal history.

After discussion, a motion was made by Ritter and seconded by Peter to allow Mr. Diaz to obtain a license recognition broker license after making proper application and to have a license issued. Motion failed with Geiser and Ritter voting aye, and with Burleigh, Dohse, Gehrki, Peter, and Evnen voting nay.

Jonathan Cody, License Recognition Associate Broker Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Cody distributed an additional letter of explanation; correspondence from Mr. Cody's attorney; a copy of Mr. Cody's concealed weapon or firearm license in the State of Florida; news articles regarding firearms possession; and a United State Court of Appeals case for Mr. Patrick Darnell Daniels Jr. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13e1.

Mr. Cody explained the situations regarding his criminal history.

A motion was made by Evnen and seconded by Dohse that Mr. Cody not be allowed to be granted a License Recognition Associate Broker license at this time. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Review and Approval of Travel to ARELLO Leadership Conference

Deputy Director Rut presented an exhibit regarding the estimated costs of staff participating in ARELLO Leadership Conference in 2024. A copy of said exhibit is attached to and made a part of these minutes.

After discussion, a motion was made by Ritter and seconded by Peter to approve the reimbursement of expenditures for staff who attend the meeting set forth in the exhibit. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Legislative Matters

Commission Proposed Legislation

Director Lemon presented an exhibit from the Nebraska REALTORS® Association regarding the proposed legislation of the Commission. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon distributed correspondence from Attorney Matthew Schaefer regarding feedback from the Land Title Association regarding the proposed legislation of the Commission. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 15a1.

Director Lemon explained that the proposed legislation was sent to the Nebraska REALTORS® Association as well as others to review. He noted that letters were received and presented as part of the process. There was discussion regarding the fine increase as proposed in one of the bills.

Ashley Hendrickson, with the Nebraska REALTORS® Association was present for the discussion. She noted that the proposed legislation was sent to the Nebraska REALTORS® Association's executive committee for review. She explained that language regarding the fines raised some concern, especially as it related to the commissions of the licensees.

There was discussion regarding the proposed language in the bill and if changes were necessary. Ms. Hendrickson explained that the Nebraska REALTORS® Association's does not take a position on a bill until after it is introduced to the Legislature.

Director Lemon noted that if the language regarding the commission amount being fined becomes an issue while proceeding through the Legislative process, it could be amended.

There was also discussion regarding the proposed language as presented in exhibit 15a1. No changes were suggested to be made at this time.

After discussion, a motion was made by Peter and seconded by Ritter to authorize the Director to introduce the bills with the Commission's support. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

Other Legislation

Director Lemon explained that there may be other introduced legislative bills that may be of interest to the Commission which he monitors once introduced. He indicated that there may be an legislation regarding alien ownership of land introduced to enable better monitoring and enforcement of current provisions in law which may be if interest to the Commission.

Director Lemon noted that another issue may be closing with good funds, which may be introduced by the Banker's Association. He explained that this would be a new type of electronic transfer allowed under the law for real estate closings.

No action was necessary on this report.

Information Matters

Amendments to Nebraska Administrative Code Title 299, Ch. 2

Director Lemon explained that the amendments to the Nebraska Administrative Code Title 299, Ch. 2, have been approved by the Attorney General's office and has been sent to the Governor for approval.

No action was necessary on this report.

Burnett v. National Association of Realtors Class Action Lawsuit Update

Director Lemon presented an exhibit of news report regarding the Burnett v. National Association of Realtors Class Action Lawsuit Update. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained that the commission practice potentially affected by the decision, are not required or prohibited under the License Act, but are current custom and practice in much of the industry. He reported that there is no action required at this time by the Commission, but he would continue to monitor this lawsuit, which is being appealed, as well as other similar suits currently being tried.

No action was necessary on this report.

Future Meeting Dates

January 18-19, 2024, Telegraph Lofts East Center, Lincoln
February 22-23, 2024, Telegraph Lofts East Center, Lincoln
March 21-22, 2024, Telegraph Lofts East Center, Lincoln
April 25-26, 2024, Telegraph Lofts East Center, Lincoln
May 16-17, 2024, Telegraph Lofts East Center, Lincoln
June 20-21, 2024, Telegraph Lofts East Center, Lincoln

Recesses and Adjournment

At 10:26 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:35 a.m.

At 11:17 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 11:25 a.m.

At 12:41 p.m., there being no further business to come before the Commission, a motion was made by Dohse and seconded by Gehrki that the meeting adjourn. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the November 9, 2023, meeting of the Nebraska Real Estate Commission were available for inspection on November 16, 2023, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,

Greg Lemon
Director

Guests Signing the Guest List

Ashley Hendrickson, Nebraska REALTORS® Association, Lincoln

Kim Braaten, Nebraska REALTORS® Association, Lincoln

Eric Kasik, Legislature, Lincoln

Kim Zwiener, Lincoln

Julie Joeckel, Lincoln

