

**NEBRASKA REAL ESTATE COMMISSION**

**January 17, 2014**

**Staybridge Suites**

**Staybridge Room**

**Lincoln, NE**

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**Opening**

Acting Chairperson Rouch convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on January 17, 2014, 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, with the exception of Chairperson Gale, who was absent and excused. Also present were Director Greg Lemon, Deputy Director for Education and Licensing Teresa Hoffman, and Administrative Assistant 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. Acting Chairperson Rouch 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.

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

Director Lemon noted that agenda items 6a, 11b, 11c, 19d, 19e, and 19f had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Ptak and seconded by Stange to adopt the final agenda as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

**Minutes of November 21, 2013**

The minutes of the Commission meeting held on November 21, 2013, were considered.

After review, a motion was made by Avery and seconded by Ptak to approve the minutes as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

**Public Comment**

Acting Chairperson Rouch 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 Reports 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, 2013, was \$983,817.65, which compared to a cash fund balance of \$905,736.44 on November 30, 2012.

The cash fund balance as of December 31, 2013, was \$1,263,432.05, which compared to a cash fund balance of \$1,055,335.81 on December 31, 2012.

After discussion, a motion was made by Ptak and seconded by Freeman to file the November and December Receipts and Expenditures Reports for audit. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

### **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 - Amendment for Marriott Vacation Club Destinations**

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

A motion was made by Stange and seconded by Avery to approve the amendment to the registration as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

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

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

After review, a motion was made by Freeman and seconded by Stange to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

### **Examination Reports – November and December**

Deputy Director Hoffman 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 Freeman and seconded by Avery to ratify the November and December Examination Reports for the purpose of issuing licenses. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

#### **Examination Passing Rosters**

Deputy Director Hoffman 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**

### **Pre-License Education Provider Approval**

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

### **Continuing Education Activity Approval**

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

### **Continuing Education Instructor Approval**

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

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

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

After review, a motion was made by Ptak and seconded by Alloway to ratify the four reports. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

### **Continuing Education Activity Rejection**

Deputy Director Hoffman 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**

Director Lemon 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**

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

Director Lemon presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Freeman and seconded by Stange that the matter be held in abeyance and be brought back to the Commission upon the completion of the pre-trial diversion program by the respondent.

After further discussion, the pending motion was withdrawn by the mover and the second.

A motion was made by Freeman and seconded by Stange that a letter of admonishment be sent to the licensee, and that the matter be held in abeyance pending the successful completion of the pre-trial diversion program by the respondent. Motion carried with Alloway, Freeman, Ptak, Stange and Rouch voting aye, with Avery not participating or voting, having recused himself, thereby nullifying any potential conflict of interest, and with Gale not participating or voting, being absent and excused.

### **Presentation of Stipulation and Consent Orders**

#### **Complaint 2013-028, Joyce Krings vs. Michael Joseph Korth**

Director Lemon presented a Stipulation and Consent Order in the matter of Complaint 2013-028, Joyce Krings vs. Michael Joseph Korth. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Freeman and seconded by Ptak to enter into the Order as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

#### **Complaint 2013-026, Commission vs. Nancy E. Miller**

Director Lemon presented a Stipulation and Consent Order in the matter of Complaint 2013-026, Commission vs. Nancy E. Miller. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Freeman and seconded by Avery to enter into the Order as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

#### **Complaint 2013-031, Commission vs. Troy Michael Ortmeier**

Director Lemon presented a Stipulation and Consent Order in the matter of Complaint 2013-031, Commission vs. Troy Michael Ortmeier. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Freeman and seconded by Ptak to enter into the Order as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

### **Disciplinary Hearings**

#### **Complaint 2013-026 – Commission vs. Nancy E. Miller**

The Hearing regarding Complaint 2013-026, Commission vs. Nancy E. Miller was continued at the request of the Respondent's Counsel.

#### **Complaint 2013-031 – Commission vs. Troy Michael Ortmeier**

The Hearing regarding Complaint 2013-031, Commission vs. Troy Michael Ortmeier was continued at the request of the Respondent's Counsel.

### **Informal Special Appearances**

There were no informal special appearances scheduled to be held at the meeting.

### **Personnel Matters – Deputy Director for Enforcement Update**

Director Lemon explained that Duran Cell has accepted the position as Deputy Director for Enforcement and will begin employment on January 27, 2014.

Director Lemon also explained that a personal services contract to provide training for Mr. Cell was entered into between the Commission and former Deputy for Enforcement Terry Mayrose to provide training to Mr. Cell. He also explained that the training would be for a maximum of twenty hours per week for no longer than three months. He noted that there were currently no budget concerns regarding the contract.

No action was necessary with regard to this matter.

### **Review and Approval of Travel to 2014 Regularly Attended Meetings**

Deputy Director Hoffman presented an exhibit regarding the estimated costs of Commissioners and staff participating in regularly-attended meetings in 2014. A copy of said exhibit is attached to and made a part of these minutes.

After discussion, a motion was made by Ptak and seconded by Avery to approve the reimbursement of expenditures for Commissioners and staff who attend the meetings set forth in the exhibit. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

### **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 indicated that there were no recommended changes to the document.

There was discussion regarding a Commission policy change regarding advanced notice of trust account examinations. There was also discussion regarding paperless transactions and the changes that may need to be made to the Commission's policies. It was suggested that these matters be placed on the agenda to discuss at a future meeting.

After discussion, a motion was made by Freeman and seconded by Stange to approve the exhibit as presented. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

### **Consider Approval of Special Assistant Attorneys General 2014 Fee Schedule**

Director Lemon presented an exhibit of the proposed hourly rate schedule for the special assistant attorneys general to become effective January 1, 2014. A copy of said exhibit is attached to and made a part of these Minutes. Mr. Chris Heinrich from the Harding and Schultz law firm was present to present the proposed fee schedule and answer any questions the Commissioners might have.

After discussion, a motion was made by Ptak and seconded by Freeman to approve the hourly rate schedule as presented effective January 1, 2014. Motion carried with Alloway, Avery, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

### **2013-2014 Objectives – Quarterly Report**

Director Lemon presented an exhibit regarding the 2013-2014 objectives quarterly report of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the progress made on each of the Commissions objectives.

There was discussion regarding additional items to be placed on the Objectives. The new items to be added included, electronic transactions and trust account examination policies.

No action was necessary on this report.

### **Legislative Matters**

**LB687** – Director Lemon reported that this bill would change the application procedures for real estate licensees. This was introduced by the Commission and he would be monitoring this bill. He also noted that a Hearing has been scheduled for January 21, 2014.

**LB785**- Director Lemon reported that this bill would not require acknowledgement for sale of homestead property. It states that a purchase agreement or contract for sale of homestead property signed by both spouses does not require acknowledgment to be enforceable. There was discussion as to whether this should apply to properties conveyed through land contract. Director Lemon noted that he would monitor this bill.

**LB852**– Director Lemon reported that this bill would change the provisions relating to asbestos regulation. Director Lemon noted that he would continue to monitor this bill.

**LB13** – Director Lemon reported that this bill was carried over from the last legislative session and concerned the requirement of radon resistant construction; requiring a radon mitigation statement for residential construction and creating a building codes task force. Director Lemon reported that this bill would continue to be monitored.

**LB120** – Director Lemon reported that this bill was carried over from the last legislative session and would change the provision of the Uniform Residential Landlord Tenant Act. It would redefine the term tenant; change deposit requirements; and provide a penalty fee. Director Lemon noted that he would continue to monitor this bill.

**LB427** – Director Lemon reported that this bill was carried over from the last legislative session and would adopt the Carbon Monoxide Safety Act. Director Lemon noted that he would continue to monitor this bill.

No action was necessary with regard to these matters.

### **Information Matters**

#### **Errors and Omissions Loss Report – Fourth Quarter 2013**

Director Lemon presented the Errors and Omissions Loss Report – Fourth Quarter 2013. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

#### **ARELLO Mid-Year Meeting – San Diego, California – April 9-12, 2014**

Director Lemon explained that the deadline for registration is March 18, 2014, and asked which Commissioners were planning on attending the conference. Commissioners Avery and Freeman indicated that they were planning on attending the conference and Commissioner Rouch indicated that at this time she was still undecided.

No action was necessary on this report.

### **Future Meeting Dates**

February 20-21, 2014- Staybridge Suites, Lincoln  
March 20-21, 2014- Staybridge Suites, Lincoln  
April 18, 2014- Staybridge Suites, Lincoln  
May 22-23, 2014 - Staybridge Suites, Lincoln  
June 19-20, 2014 - Staybridge Suites, Lincoln

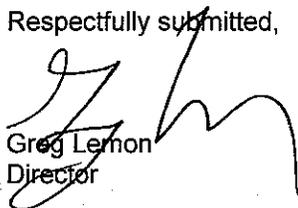
### **Recesses and Adjournment**

At 9:55 a.m., Acting Chairperson Rouch declared a brief recess, and reconvened the meeting at 10:02 a.m.

At 10:50 a.m., there being no further business to come before the Commission, a motion was made by Ptak and seconded by Freeman that the meeting adjourn. Motion carried with Avery, Alloway, Freeman, Ptak, Stange and Rouch voting aye, with Gale not participating or voting, being absent and excused.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the January 17, 2014, meeting of the Nebraska Real Estate Commission were available for inspection on February 3, 2014, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,

  
Greg Lemon  
Director

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

Kristen Anderson, Nebraska REALTORS® Association, Lincoln  
JoAnn Grennan, CBSHOME Real Estate, Omaha

