

## NEBRASKA REAL ESTATE COMMISSION

April 21, 2016

Staybridge Suites

Staybridge Room

Lincoln, NE

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### **Opening**

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on April 21, 2016, in the Staybridge Room of the Staybridge Suites, located at 2701 Fletcher Avenue in Lincoln, Nebraska. All of the members of the Real Estate Commission were present. Also present were Director Greg Lemon, Deputy Director for Education Alane Roubal, Deputy Director for Enforcement Duran Cell, and Deputy Director for Licensing Monica Rut.

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

Director Lemon presented a public notice and proofs of publication thereof relating to this meeting, all of which are attached to and made a part of these minutes. Chairperson Gale reported that all Commissioners had been notified of the meeting simultaneously, by mail and e-mail, and that a proposed tentative agenda accompanied the notification.

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

Director Lemon noted that agenda item 13a had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Stange and seconded by Alloway to adopt the final agenda as presented. Motion carried with Alloway, Avery, Dover, Freeman, Stange, Titus and Gale voting aye.

### **Minutes of March 17, 2016**

The minutes of the Commission meeting held on March 17, 2016, were considered.

After review, a motion was made by Avery and seconded by Dover to approve the minutes as presented. Motion carried with Avery, Dover, Freeman, Stange, and Titus and Gale voting aye, and with Alloway not voting having not been in attendance at the March Meeting.

### **Public Comment**

Chairperson Gale asked the members of the audience if anyone wished to come forward to provide public comment on Commission related business.

Salesperson license applicant Lisa Ann Gell reflected her concerns of the amount of time that it is taking the FBI and State Patrol to process background reports. Ms. Gell indicated that her fingerprints were rejected and it has now been 98 days of no communication from the FBI. She

explained that she is interested in taking the examination while the information is still fresh in her mind, rather than waiting any longer for another rejection. She asked that the Commission grant an exception for her circumstance so that she can take the examination prior to getting the results of the background report.

There was discussion regarding the laws and any exemptions that would be permitted.

After discussion, a motion was made by Freeman and seconded by Avery to allow Ms. Gell to sit for the examination, and not issue the license until all matters relating to her criminal background check and any other licensing requirements are resolved according to the law. Motion carried with Alloway, Avery, Dover, Freeman, and Titus voting aye, and with Stange and Gale voting nay.

After further discussion, a motion was made by Stange and seconded by Freeman that Ms. Gell be put on a future meeting agenda as an Informal Special Appearance before her license can be issued, to prove compliance with the laws and upon passing the examination.

An Amendment was offered by Commissioner Avery that if the FBI provides the Commission with the required report, and no criminal record which would be an impediment to here getting a license under Commission guidelines is discovered, that Ms. Gell not be required to appear before the Commission. The Amendment was accepted by the mover and second.

Motion carried with Alloway, Avery, Dover, Freeman, Stange, Titus and Gale voting aye.

Trudy Meyer, broker with CBSHOME Real Estate in Omaha, indicated that the same type of situation happened to her as well when obtaining another state license and after being denied three times by the FBI, they finally conducted a regular search.

### **Receipts and Expenditures Report for March**

Director Lemon presented the Receipts and Expenditures Report for March. 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 March 31, 2016, was \$1,645,958.66, which compared to a cash fund balance of \$1,260,763.41 on March 31, 2015.

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

### **Specialized Registrations**

#### **Time-Share Registrations - Amendment for ClubWyndham Access Vacation Ownership and Marriott Vacation Club Destinations**

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

## **Subdivided Land Registration – Amendment for Reynolds Plantation**

Director Lemon presented a specialized registrations report which included the registration of amendment to the subdivided land registration for Reynolds Plantation. A copy of said report is attached to and made a part of these minutes.

A motion was made by Freeman and seconded by Avery to approve the amendments to the three registrations as presented. Motion carried with Alloway, Avery, Dover, Freeman, Stange, Titus and Gale voting aye.

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

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

After review, a motion was made by Titus and seconded by Alloway to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Avery, Dover, Freeman, Stange, Titus and Gale voting aye.

## **Examination Report - March**

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

There was discussion whether to add a portion to the graph that would show the passing rate on the second examination attempt. Deputy Director Roubal indicated that she would look into this request.

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

## **Examination Passing Roster**

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

No action was necessary on this report.

## **Real Estate Education Matters**

### **Pre-License Education Instructor Approval**

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

### **Continuing Education Activity Approval**

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

### **Continuing Education Instructor Approval**

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

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

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

After review, a motion was made by Avery and seconded by Stange to ratify the four reports. Motion carried with Alloway, Avery, Dover, Freeman, Stange, Titus and Gale voting aye.

### **Continuing Education Activity Rejection**

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

No action was necessary on this report.

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

Deputy Director Cell presented a summary report of the pending complaints, which included a list of licensees presently under disciplinary action or on appeal. A copy of said report is attached to and made a part of these minutes.

No action was necessary on this report.

The following sworn complaints and investigative matters were presented to the Commission:

#### **Item A** Complaint 2015-013 - Mr. & Mrs. Getzschman vs. Raymond Joseph Neary

Deputy Director Cell presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Freeman and seconded by Avery that the complaint be dismissed without prejudice. Motion carried with Avery, Dover, Freeman, Stange, Titus and Gale voting aye, with Alloway abstaining.

#### **Item B** Complaint 2014-021 – Tom R. & Rebecca L. Hoover vs. Sonya Kaye Paxton

Deputy Director Cell requested Complaint 2014-021 be dismissed. Deputy Director Cell explained that Complaint 2014-021 was presented to the Commission as an investigative matter. The Commission had voted to file a new complaint on its own motion and to hold Complaint 2014-021 in abeyance until the new complaint had been adjudicated. Complaint 2015-002 was the new complaint.

**Item C Complaint 2014-025 – Terry Jessen vs. Richard Thomas Bretz & George Ray Cliff**

Deputy Director Cell requested Complaint 2014-025 be dismissed. Deputy Director Cell explained that Complaint 2014-025 was presented to the Commission as an investigative matter. The Commission had voted to file a new complaint on its own motion and to hold Complaint 2014-025 in abeyance until the new complaint had been adjudicated. Complaint 2015-018 was the new complaint.

A motion was made by Freeman and seconded by Avery to dismiss Complaint 2014-021, since the Commission held the Hearing for Complaint 2015-002 at the March meeting and to dismiss Complaint 2014-025, since the Commission held the Hearing for Complaint 2015-018 at the March meeting. Motion carried with Avery, Dover, Freeman, Stange, Titus and Gale voting aye, with Alloway abstaining.

**Item D Complaint 2014-032 – Kim & Gary Justus vs. John Allen Hardy & Sandra Turner**

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

Deputy Director Cell requested Complaint 2014-032 be dismissed. Deputy Director Cell explained that Complaint 2014-032 was presented to the Commission as an investigative matter. The Commission had voted to file a new complaint on its own motion and to hold Complaint 2014-032 in abeyance until the new complaint had been adjudicated. Complaint 2015-038 was the new complaint.

**Item E Complaint 2014-039 – Robert & Waraporn Mahlman vs. Stephen Randolph Wiley**

Deputy Director Cell requested Complaint 2014-039 be dismissed. Deputy Director Cell explained that Complaint 2014-039 was presented to the Commission as an investigative matter. The Commission had voted to file a new complaint on its own motion and to hold Complaint 2014-039 in abeyance until the new complaint had been adjudicated. Complaint 2015-039 was the new complaint.

A motion was made by Alloway and seconded by Avery to dismiss Complaint 2014-032, since the Commission accepted a Stipulation and Consent Order for Complaint 2015-038 at this meeting and to dismiss Complaint 2014-039, since the Commission accepted a Stipulation and Consent Order for Complaint 2015-039 at the March meeting. Motion carried with Alloway, Avery, Dover, Stange, Titus and Gale voting aye, and with Freeman not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

**Presentation of Stipulation and Consent Orders**

**Complaint 2015-038,  
Commission vs. John Hardy**

Deputy Director Cell presented a Stipulation and Consent Order in the matter of Complaint 2015-038, Commission vs. John Hardy. A copy of said Order is attached to and made a part of these minutes.

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

After discussion, a motion was made by Alloway and seconded by Stange to enter into the Order as presented. Motion carried with Alloway, Avery, Dover, Stange, Titus and Gale voting aye, and with Freeman not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

**Complaint 2015-038,  
Commission vs. Sandra Turner**

Deputy Director Cell presented a Stipulation and Consent Order in the matter of Complaint 2015-038, Commission vs. Sandra Turner. A copy of said Order is attached to and made a part of these minutes.

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

After discussion, a motion was made by Avery and seconded by Alloway to enter into the Order as presented. Motion carried with Alloway, Avery, Dover, Stange, Titus and Gale voting aye, with Freeman not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

**Complaint 2015-039  
Commission vs. Steven Randolph Wiley**

Deputy Director Cell presented a Stipulation and Consent Order in the matter of Complaint 2015-039, Commission vs. Steven Randolph Wiley. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Stange and seconded by Dover to enter into the Order as presented. Motion carried with Alloway, Avery, Dover, Freeman, Stange, Titus and Gale voting aye.

**Disciplinary Hearings**

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

**Informal Special Appearances**

**Nicole Jean Philippi – Salesperson Applicant**

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

Chairperson Gale reviewed the procedure for informal special appearances.

Ms. Philippi explained the situations regarding her past criminal history.

After discussion, a motion was made by Stange and seconded by Alloway to allow Ms. Philippi to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Philippi 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. Ms. Philippi must provide to the Commission written proof by a sponsor of attendance two times per week at Alcoholics Anonymous. Such report to be provided to the Commission on a quarterly basis for a period of three years. Ms. Philippi must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time for a period of three years. Motion carried with Alloway, Avery, Dover, Freeman, Stange, Titus and Gale voting aye.

### **2015-2016 Objectives – Quarterly Report**

Director Lemon presented an exhibit regarding the proposed 2015-2016 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the progress made this quarter on each of the objectives.

No action necessary

### **Legislative Matters**

**LB 28** - Director Lemon reported that the "Radon Resistant New Construction Act" was placed on general file and did not pass.

**LB 678** - Director Lemon reported that the "Teams" bill had been approved by the Governor and will be effective on October 1, 2016.

No action was necessary with regard to these matters.

### **Information Matters**

#### **Errors and Omissions Loss Report – First Quarter 2016**

Director Lemon presented the Errors and Omissions Loss Report – First Quarter 2016. 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 – April 13-16, 2016 - Atlanta, GA – Report of Attendees**

Director Lemon noted that Commissioners Avery and Freeman, and Deputy Director Rut attended the ARELLO Annual Meeting.

Each of the Attendees discussed their experiences at the ARELLO Meeting.

No action was necessary on this report.

### **Future Meeting Dates**

May 19-20, 2016 - Staybridge Suites, Lincoln  
June 16-17, 2016 - Staybridge Suites, Lincoln  
August 18-19, 2016 Staybridge Suites, Lincoln

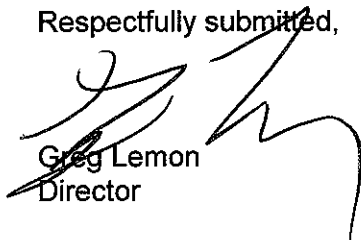
### **Recesses and Adjournment**

At 9:56 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:06 a.m.

At 12:20 p.m., there being no further business to come before the Commission, a motion was made by Stange and seconded by Alloway that the meeting adjourn. Motion carried with Avery, Alloway, Dover, Freeman, Stange, Titus and Gale voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the April 21, 2016, meeting of the Nebraska Real Estate Commission were available for inspection on April 26, 2016, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon  
Director

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

Lisa Gell, Omaha  
John Gell, CBSHome Real Estate, Omaha  
Jeff Hebb, Nebraska REALTORS® Association, Lincoln  
Trudy Meyer, CBSHome Real Estate, Omaha  
Robin Kilgor, State Budget Division, Lincoln  
Julie Joeckel, Home Real Estate, Lincoln