

**NEBRASKA REAL ESTATE COMMISSION**

**April 20, 2017**

**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 20, 2017, 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, 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 18b had been added since the tentative agenda was mailed to the Commissioners.

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

**Minutes of March 16, 2017**

The minutes of the Commission meeting held on March 16, 2017, were considered.

After review, a motion was made by Stange and seconded by Alloway to approve the minutes as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

**Public Comment**

Chairperson Gale 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 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, 2017, was \$1,938,842.57, which compared to a cash fund balance of \$1,645,958.66 on March 31, 2016.

There was discussion regarding the Appropriation of the Commissions funds. Director Lemon indicated that at this time it is recommended in the Appropriations Committee final recommendation that that \$200,000 be taken from our fund in fiscal year 2017/2018 and 2018/2019. There was discussion regarding the other funds affected by this recommendation and the total amount that was taken from the agencies. Director Lemon indicated that the legislative bill would be debated the following week and he would look into the Commission's concerns as well as oppose the bill as discussed.

There was also discussion regarding the industries response to funds being taken from the Commission's fund. Jeff Hebb, with the Nebraska REALTORS Association indicated that a letter was written opposing the proposed funds transfer.

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

## **Specialized Registrations**

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

Director Lemon presented a specialized registration 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 Freeman and seconded by Alloway to approve the amendment to the registration as presented. Motion carried with Alloway, Bourne, 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 Freeman and seconded by Alloway to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Bourne, 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.

After review, a motion was made by Alloway and seconded by Stange to ratify the March Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Bourne, 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.

### **First Quarter AMP School Reports**

Deputy Director Roubal presented the AMP Review of Examination Performance Reports for the first quarter of 2017, 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.

### **Individual Instructor Results**

Deputy Director Roubal presented the Individual Instructor Results Sample for Randall School of Real Estate, copies of which are attached to and made a part of these minutes.

Deputy Director Roubal explained that this report is being presented as a sample report for the purpose of assisting education providers to evaluate their instructors. The Commission requested at a prior meeting that Deputy Director Roubal evaluate the time associated with compiling this report and evaluate the usefulness of providing such report. Deputy Director Roubal indicated that the compilation of the report took approximately two hours. She also indicated that she did not feel that the contents resulted in the desired criteria the school was expecting for evaluation purposes.

There was discussion regarding the contents and usefulness of continuing to produce such a report for those providers who are requesting such a report. Deputy Director Roubal indicated that she would be willing to continue to produce this report to the Director of the requesting Schools for a period of six months, at which time reevaluation could occur.

The Commission indicated that as time passes, this report may become more valuable. It was discussed that Deputy Director Roubal reevaluate the report with the Commission in six months.

No action was necessary on this report.

## **Real Estate Education Matters**

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

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

### **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. (Note: It was discovered at the meeting that the Exhibit for this Agenda Item was incorrect. The course number for Master Real Estate Academy's Team Training was set forth as "1000" when, in fact, the course number should have been "1000R". The Exhibit was corrected for attachment to 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 Activity Recognition**

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

### **Broker-Approved Training Activity Significant Change**

Deputy Director Roubal presented a Broker-Approved Training Significant Change 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 the six reports. Motion carried with Alloway, Bourne, 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**

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** Complaint 2016-008 – Paula Dinovo vs. Sherri Lynn Hinkel & John Paul Broesch

Director Lemon 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 Titus that the complaint be dismissed without prejudice.

An Amendment was offered by Commissioner Stange that a letter of admonishment be sent to Respondent 1. The Amendment was accepted by the mover and the second.

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

### **Item B** Complaint 2016-009 – Fred Hewitt vs. Jon L. Farley

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

Director Lemon 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 Titus and seconded by Freeman that the complaint be dismissed without prejudice.

Motion carried with Alloway, Dover, Freeman, Stange, Titus and Gale voting aye, with Bourne not participating or voting, having recused herself, thereby nullifying any potential conflict of interest.

### **Item C** Complaint 2016-010

Director Lemon 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 Stange that Complaint 2016-010 be sent back for further investigation and results to be presented at a future meeting. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

#### **Item D Complaint 2016-006**

Director Lemon explained that at the previous meeting, the Commission took action on Complaint 2016-006. The Commission dismissed the complaint and voted that a letter of admonishment be sent to Respondent 3. Director Lemon explained that circumstances and asked the Commission to reconsider sending the letter of admonishment.

After discussion a motion was made by Freeman and seconded by Alloway that the motion made at the previous meeting regarding Complaint 2016-006 be amended therefore reversing the motion to send the letter of admonishment to Respondent 3. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

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

There were no Stipulation and Consent Orders to be presented at this meeting.

#### **Disciplinary Hearings**

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

#### **Informal Special Appearances**

##### **Kendra Lee Allison, Salesperson Applicant**

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

Chairperson Gale reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Freeman and seconded by Dover to allow Ms. Allison to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Allison 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. Allison must also notify the Commission staff and the Designated Broker of any criminal charge, except those charges where there is no possible sentence of jail time for a period of two years. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

##### **Jon Gordon Whitaker, Salesperson Applicant**

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

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Whitaker explained the situations regarding his past criminal history.

After discussion, a motion was made by Bourne and seconded by Alloway to allow Mr. Whitaker to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Whitaker 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. Mr. Whitaker must also notify the Commission staff and the Designated Broker 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, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

### **2016-2017 Objectives – Quarterly Report**

Director Lemon presented an exhibit regarding the 2016-2017 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.

At 11:51 a.m., a motion was made by Stange and seconded by Alloway to go into closed session for discussion of the database to protect parties involved. After discussion, the pending motion was withdrawn by the mover and the second.

At 11:56 a.m., a motion was made by Stange and seconded by Alloway to go into closed session for discussion of the database to protect the reputation of the parties involved. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

Chairperson Gale indicated, prior to the closed session beginning, that the reason for the closed session was to discuss matters relating to the database project.

At 12:51 p.m., a motion was made by Freeman and seconded by Titus to reconvene in open session. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

After reconvening in open, public session, a motion was made by Stange and seconded by Alloway to allow Director Lemon time to consult with the Commission's legal counsel regarding the contract. After consultation with counsel and all parties involved, should it be concluded that is no clear reconcilable path to move forward, the Commission gives Director Lemon the authority to cancel the contract. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

### **Consider Approval of Amended Agency Disclosure Form**

Director Lemon presented an exhibit of the proposed changes to the Agency Disclosure form. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained the revisions as discussed at the prior Commission meeting. He further explained the differences between the two versions of the Agency Disclosure form provided in the Exhibit.

There was discussion regarding the proposed changes and simplifying the form as opposed to using the two versions provided in the Exhibit. There was further discussion regarding the contents of the revisions which would assist in protecting the public and provide clarification for both the licensee and the public.

Chairperson Gale sought the opinion of the guests which were present. Mark Leaders with CBSHome, Omaha, indicated that a one page form would be desired and the proposed changes could lead to the Agency Disclosure form being two or three pages. Mari Jo Mentzer, Lincoln, indicated that many agents don't currently make proper disclosure and this form is a tool for both the agent and consumer to show as much disclosure as possible and showing the structure in this manner is a needed element.

There was further discussion regarding the layout of the form and proposed revisions.

A motion was made by Freeman and seconded by Titus to approve the form with the revision to eliminate the wording in Item A "proposing to represent you".

After discussion, an Amendment was offered by the mover to also strike the word "Broker" in Item A. The Amendment was accepted by the second.

After further discussion, an Amendment was offered by the mover to also strike the word "(mandatory)", the semi colon at the end of the sentence in Item A, and remove the paragraph headings A, B and C. The Amendment was accepted by the second.

Commissioner Alloway offered an Amendment to also change the wording of item A3 to "Managing Broker(s) name(s) and phone number(s) (only if applicable):". The Amendment was accepted by the mover and the second.

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

### **Implementation of LB16**

Director Lemon presented an exhibit regarding the regulation changes due to the passing of LB16. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon indicated that LB16 was passed and signed by the Governor on March 29, 2017. The bill will go into effect at the end of August or first part of September depending on the session end date. He further explained that this bill also eliminates the wall license requirement and therefore the verification of licensure is through the Commission Office. He indicated that an article in the Commission Comment newsletter would also published prior to implementation of the bill changes.

No action was necessary with regard to these matters.

### **Legislative Matters**

**LB 9** - No new information presented.

**LB 15** - No new information presented.

**LB 16** – Director Lemon reported that bill had been passed by the Legislature and signed by the Governor on March 29, 2017



**LB 36** – No new information presented.

**LB 127** – No new information presented.

**LB 208** – No new information presented.

**LB 257** - Director Lemon reported that the bill had been placed on Select File on April 10, 2017.

**LB 299** - No new information presented.

**LB 312** - No new information presented.

**LB 426** - No new information presented.

**LB 549** - No new information presented.

No action was necessary with regard to these matters.

### **Information Matters**

#### **Errors and Omissions Loss Report – First Quarter 2017**

Director Lemon presented the Errors and Omissions Loss Report – First Quarter 2017. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

#### **License Law Changes Tour**

Director Lemon explained that he had contacted the local boards regarding interest in a speaking engagement in their area to explain the changes in the License Law, Advertising laws, and the Rules and Regulations regarding Teams. He noted that he has spoken with a few boards and has scheduled multiple appearances.

No action was necessary on this report.

#### **ARELLO Mid-Year Meeting – Louisville, Kentucky – April 26-29, 2017**

Director Lemon explained that the deadline for registration is April 3, 2017, and indicated that Commissioners Freeman and Stange planned on attending as well as himself and Deputy Director Rut.

No action was necessary on this report.

#### **ARELLO District 2 & 3 Meeting – Charleston, West Virginia – June 8-10, 2017**

Director Lemon explained that the deadline for registration is May 23, 2017, and asked which Commissioners were planning on attending the conference. Commission Bourne expressed interest in attending.

No action was necessary on this report.

### **Future Meeting Dates**

May 25-26, 2017 - Staybridge Suites, Lincoln  
June 22-23, 2017 - Staybridge Suites, Lincoln  
August 17-18, 2017 – Staybridge Suites, Lincoln  
September 28-29, 2017 – Staybridge Suites, Lincoln  
October 19-20, 2017 – Country Inns & Suites, Lincoln  
November 16-17, 2017 – Staybridge Suites, Lincoln

### **Recesses and Adjournment**

At 10:08 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:33 a.m.

Chairperson Gale was briefly excused from the meeting at 11:04 a.m., and rejoined the meeting at 11:06 a.m.

Commissioner Stange was briefly excused from the meeting at 11:46 a.m., and rejoined the meeting at 11:48 a.m.

At 12:58 p.m., there being no further business to come before the Commission, a motion was made by Freeman and seconded by Dover that the meeting adjourn. Motion carried with Alloway, Bourne, 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 20, 2017, meeting of the Nebraska Real Estate Commission were available for inspection on April 24, 2017, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,

  
Greg Lemon  
Director

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

Mark Leaders, CBSHOME Real Estate, Omaha  
Jim McCord, J.J. Palmtag, Nebraska City  
Mari Jo Mentzer, Lincoln  
Jeff Hebb, Nebraska REALTORS® Association, Lincoln