

NEBRASKA REAL ESTATE COMMISSION

August 17, 2017

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on August 17, 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, with the exception of Commissioners Bourne and Dover, who was absent and excused. 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. Adam Prochaska, Special Assistant Attorney General and Counsel to the Commission, was present for the Kaseman Hearing.

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 items 6c and 19c had been added and agenda item 13a had been removed since the tentative agenda was mailed to the Commissioners.

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

Minutes of June 22, 2017

The minutes of the Commission meeting held on June 22, 2017, were considered.

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

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.

Financial Matters

Receipts and Expenditures Report for June and July

Director Lemon presented the Receipts and Expenditures Reports for June and July. 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 June 30, 2017, was \$1,805,799.21, which compared to a cash fund balance of \$1,530,139.93 on June 30, 2016.

The cash fund balance as of July 31, 2017, was \$1,565,368.62, which compared to a cash fund balance of \$1,501,395.36 on July 31, 2016.

After discussion, a motion was made by Freeman and seconded by Titus to file the June and July Receipts and Expenditures Reports for audit. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Final 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.

Fiscal Year 17-18 Monthly Budget Allocations

Director Lemon presented the monthly budget allocations for Fiscal Year 2017-2018. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary on this report.

Consider 2018 License Fees

Director Lemon presented an exhibit in which the Budget and Finance Subcommittee recommended a ninety dollar decrease in the two-year renewal fee for 2018 for brokers and a seventy dollar decrease in the two-year renewal fee for 2018 for salespersons as well as a forty-five dollar decrease in the license fee for brokers and thirty-five dollar decrease in the license fee for salespersons for 2018. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon reviewed the documentation as set out in the exhibit noting the conservative revenue projection and the lowest level the fund balance may reach as shown on the exhibit.

After discussion, a motion was made by Titus and seconded by Stange to approve the fee decrease as recommended. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Specialized Registrations

Time-Share Registrations - Amendment for ClubWyndham Access Vacation Ownership Plan

Director Lemon presented a specialized registrations 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.

Campground Registration – Amendment for Thousand Trails

Director Lemon presented a specialized registrations report which included the registration of amendment to campground registration for Thousand Trails. A copy of said report is attached to and made a part of these minutes

Campground Registration – Morehead Island

Director Lemon presented a specialized registrations report which included the campground registration for Morehead Island. A copy of said report is attached to and made a part of these minutes

After review, a motion was made by Freeman and seconded by Titus to approve the three registrations as presented. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

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 Alloway and seconded by Bourne to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Examination Report – June and July

Deputy Director Roubal presented for ratification the June and July Examination Reports, copies of which are attached to and made a part of these minutes.

After review, a motion was made by Alloway and seconded by Bourne to ratify the June and July Examination Reports for the purpose of issuing licenses. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Examination Passing Rosters

Deputy Director Roubal presented the Examination Passing Rosters for June and July, copies of which are attached to and made a part of these minutes.

No action was necessary on this report.

AMP School Reports

Deputy Director Roubal presented the AMP Review of Examination Performance Reports for comparison for the period of April 1, 2017 through June 30, 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.

AMP State Reports 2015-2017

Deputy Director Roubal presented the AMP State Reports for comparison for the periods of May 1, 2014 through April 30, 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.

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 Activity 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 Alloway and seconded by Stange to ratify the four reports. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Continuing Education Provider Rejection

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

No action was necessary on this report.

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.

Report on Instructor Development Workshop held July 20, 2017

Deputy Director Roubal presented a summary of the final cost associated with sponsoring the Instructor Development workshop as well as the reviews completed by the participants, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal reported the expenses were slightly higher than projected which indicated that more instructors participated than projected. She also pointed out that the workshop received positive reviews and noted that there was exceptional participation from the instructor participants.

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 2016-014

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 Titus and seconded by Stange that this complaint be held in abeyance and a new complaint be filed against the Respondent per the recommendation of Commission's Counsel. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Item B Complaint 2016-015 – Steven E. Clason vs. Susan J. Bayliss

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 Bourne and seconded by Alloway that the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, and with Dover not participating or voting, being absent and excused.

Item C Complaint 2016-016

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 Alloway that the Commission file a complaint and set for hearing on the violations alleged in the report. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, and with Dover not participating or voting, being absent and excused.

Item D Complaint 2016-017 – Jeffrey P. Ensz vs. Betty Jane Warren

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 Alloway that the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, and with Dover not participating or voting, being absent and excused.

Item E Complaint 2016-018 – Travis L. Stanley vs. Caro Carolina Azoh Ngho

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 Stange that this complaint be dismissed without prejudice and a letter of admonishment be sent to the Respondent. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, and with Dover not participating or voting, being absent and excused.

Presentation of Stipulation and Consent Orders

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

Disciplinary Hearings

Complaint 2015-023-Brian D. and Shannon M. Srb vs. David Lawton Kaseman

A Hearing was held on August 17, at 10:30 a.m., in the matter of Complaint 2015-023, Brian D. and Shannon M. Srb vs. David Lawton Kaseman. Adam Prochaska, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondent David Lawton Kaseman was present and represented by Counsel Ward F. Hoppe of Lincoln.

After opening statements, Counsels Prochaska and Hoppe jointly offered seventeen Exhibits, all of which were received by Chairperson Gale. Counsel Prochaska called Duran Cell and Brian Srb as witnesses. Counsel Hoppe called David Kaseman as a witness.

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

The Commission deliberated on the matters adduced at hearing.

A motion was made by Stange and seconded by Titus in Complaint 2015-023, that David Kaseman violated Neb. Rev. Stat. 76-2417(3), Title 299 NAC 5-003.20, and Title 299 NAC 5 003.23. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Chairperson Gale 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 Bourne that in Complaint 2015-023, David Lawton Kaseman should receive two years' probation with 60 days served on suspension, a thousand dollar fine and hearing costs. The motion died for a lack of a second.

After discussion, a motion was made by Bourne and seconded by Gale that in Complaint 2015-023, David Lawton Kaseman receive two-years' probation, with 90 days served on suspension and an additional six hours of continuing education in the areas of license law and ethics.

After discussion, an amendment was offered by the mover that Mr. Kaseman also pay a thousand dollar fine. The amendment was accepted by the second.

Motion failed with Bourne, Freeman and Gale voting aye, with Alloway, Stange and Titus voting nay and with Dover not participating or voting, being absent and excused.

After further discussion, a motion was made by Titus and seconded by Stange that in Complaint 2015-023, David Lawton Kaseman receive two-years' probation, with thirty days served on suspension, a thousand dollar fine, and six additional hours in continuing education in the areas of license law and disclosure. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, and with Dover not participating or voting, being absent and excused.

With the consent of the Respondent, and Counsel Hoppe, Chairperson Gale directed Counsel Prochaska to prepare the Order.

Chairperson Gale notified the Respondent that the costs incurred for the court reporter and any witness fees would be billed to the Respondent, as provided for in 305 NAC Chapter 4, and that the Respondent would have thirty days from the date of the Order to reimburse the Commission for said costs.

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

The Hearing was adjourned at 1:20 p.m.

Informal Special Appearances

Darryl Vincent Tolbert, Salesperson Applicant

The special appearance scheduled for Darryl Vincent Tolbert was postponed to a future meeting.

Approval of Travel

GL Solutions Client Conference – October 12-13, 2017 – Bend, Oregon

Deputy Director Lemon presented an exhibit regarding the estimated costs of staff to attend this conference. A copy of said exhibit is attached to and made a part of these minutes.

After discussion, a motion was made by Stange and seconded by Alloway to approve the reimbursement of expenditures for staff to attend the meeting as set forth in the exhibit. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

ARELLO Investigator Workshop – October 17-19 – Portland, Oregon

Deputy Director Lemon presented an exhibit regarding the estimated costs of staff to attend this conference. A copy of said exhibit is attached to and made a part of these minutes.

After discussion, a motion was made by Bourne and seconded by Freeman to approve the reimbursement of expenditures for staff to attend the meeting as set forth in the exhibit. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Commission Policy and Interpretation on Coming Soon Listing/Presenting All Offers

Director Lemon presented the Policy and Interpretation on the Coming Soon Listing adopted by the Commission and a letter explaining potential changes to this policy. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that he was seeking guidance as to the advice the Commission should provide to licensees regarding the coming soon listings and when to present offers to the sellers. There was discussion regarding the policy and if the policy was changed, what difficulty this may potentially cause the licensees with regard to the Fair Housing Act. There was also discussion regarding when a licensee would be required to present the offer to the sellers. Director Lemon provided in the exhibit three different alternatives law which were

reviewed by counsel prior to the meeting and presented to the Commissioners.

A motion was made by Stange and seconded by Gale to adopt the language as stated in alternative number three as provided in the exhibit. After discussion the motion was withdrawn by the mover and the second.

A motion was made by Freeman and seconded by Stange to adopt language into the existing policy which is a combination as provided in alternative numbers one and three which would read, "The seller should be informed that there is a pending offer or offers, and asked if they want to remove the property from coming soon status and make it an active listing at which time the agent should inform the offeror to resubmit their offer when the property is no longer coming soon and is in fact on the market." Motion carried with Alloway, Freeman, Stange, Titus and Gale voting aye, with Bourne voting nay and with Dover not participating or voting, being absent and excused.

Consider Renewal of Errors and Omissions Insurance Contract with Williams Underwriting Group for 2018

Director Lemon presented an exhibit regarding the 2018 Renewal of Contract Quotation from Williams Underwriting Group (WUG). A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon indicated that the errors and omissions insurance coverage and underwriter would be the same as the current year. He noted that the terms would remain the same as the current program and the premium amount would not be increased.

There was discussion regarding cyber fraud and it was requested that Director Lemon research the possibility with the errors and omissions insurance provider that this type of coverage be added in the future. A report of such inclusion was requested to be provided for the Commissions review at its January meeting.

After discussion, a motion was made by Alloway and seconded by Freeman to approve the renewal of contract with WUG for 2018 as presented. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Consideration of Criteria for Applicants With Criminal Convictions

Director Lemon presented an exhibit regarding the criteria for applicants with criminal convictions. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon indicated that this report was being provided as a follow up to the Commissions questions regarding interlock devices. There was discussion regarding the records of the interlock device and if the Commission could obtain them should they decide to impose such requirement of a licensee. Director Lemon indicated that he would further research this subject and report back to the Commission at a future meeting.

No action was necessary on this report.

Adopt Drew Stange's Resolution

Director Lemon presented a resolution commemorating service on the Commission by Drew Stange. A copy of said resolution is attached to and made a part of these Minutes.

A motion was made by Freeman and seconded by Gale that the resolution for Drew Stange be adopted as amended. Motion carried with Alloway, Bourne, Freeman, Titus and Gale voting aye, with Stange not participating or voting, having recused himself, thereby nullifying any potential conflict of interest and with Dover not participating or voting, being absent and excused.

Information Matters

ARELLO Annual Conference – September 20-24, 2017 - Honolulu, Hawaii

Director Lemon noted that Commissioners Dover, Titus, Chairperson Gale and Deputy Director Rut planned on attending the Annual Conference. He asked if any other Commissioners were planning on attending the conference.

No action was necessary on this report.

Errors and Omissions Loss Report – Second Quarter 2017

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

There was discussion regarding the report and it was the consensus of the Commission that further clarification of the columns be provided for the next quarterly report.

No action was necessary with regard to this matter.

Abstractors Board of Examiners

Director Lemon explained that the Abstractors Board of Examiners licenses title abstractors but since title insurance companies provide an alternative service to abstracts which is much more widely used, the number of abstractors keeps going down. The Abstractors Board of Examiners approached the Commission office indicating that the Executive Director is retiring and due to the shrinking industry, they are unsure if they will be able to support themselves as an independent agency. They indicated that they may explore the opportunity of merging with another agency and asked for the Commission's opinion. The merging of State Agencies would require a study and legislative action so should they seek the option to merge this may be a lengthy process but Director Lemon would continue to report updates to the Commission as needed. He further explained that discussion occurred internally with Commission staff and did not feel that due to the work load, that a merger would cause many issues internally.

No action was necessary at this time.

Future Meeting Dates

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

Commissioner Bourne joined the meeting at 9:06 a.m.

At 10:12 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:30 a.m.

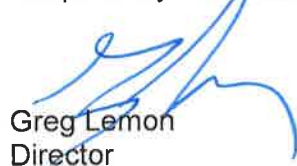
At 11:58 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 12:10 p.m.

At 1:20 p.m., Chairperson Gale declared a recess for lunch, and reconvened the meeting at 2:27 p.m.

At 4:05 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 Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover 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 August 17, 2017, meeting of the Nebraska Real Estate Commission were available for inspection on **August 31**, 2017, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Jim McCord, J.J. Palmtag, Nebraska City
Trudy Meyer, CBSHome, Omaha
Jeff Hebb, Nebraska REALTORS® Association, Lincoln
Amy Schulze, Arlington
Tim Kenny, Lincoln

