

NEBRASKA REAL ESTATE COMMISSION

June 15, 2023

Country Inn & Suites

Lighthouse Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:02 a.m. on June 15, 2023, in the Lighthouse Room of the Country Inn & Suites, located at 5353 N 27th Street in Lincoln, Nebraska. All of the members of the Real Estate Commission were present, with the exception of Commissioner Ritter, who was absent and excused. Also present were Director Greg Lemon, Deputy Director for Enforcement Samantha Lowery, and Deputy Director for Licensing Monica Rut. John Weis, Special Assistant Attorney General and Counsel to the Commission, was present for the Rood Hearing.

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 public table in the meeting room; that a copy of the Open Meetings Act was posted on the easel located on the west wall of the meeting room by the north 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 4a had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Starman and seconded by Dohse to adopt the final agenda as presented. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused

Minutes of May 18, 2023

The minutes of the Commission meeting held on May 18, 2023, were considered.

After review, a motion was made by Gehrki and seconded by Dohse to approve the minutes as presented. Motion carried with Dohse, Gehrki, Geiser, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused, and with Peter not voting having not been in attendance at the May Meeting.

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.

Director Lemon introduced Yahaira Ramirez, the new Executive Assistant to the Commission; Lizbeth Hernandez, the new Finance officer at the Commission office; and SuLyn Medvin, the new Office Specialist. The Commissioners welcomed each of them to the Commission staff.

Receipts and Expenditures Report for May

Director Lemon presented the Receipts and Expenditures Report for May. 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 May 31, 2023, was \$1,680,576.17, which compared to a cash fund balance of \$1,632,010.21 on May 31, 2022.

After discussion, a motion was made by Starman and seconded by Dohse to file the May Receipts and Expenditures Report for audit. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused

Specialized Registrations

There were no specialized registrations to be presented at the meeting.

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 Gehrki and seconded by Peter to ratify issuance of the licenses as set forth in the report. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused

License Statistic Report for March

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 - May

Deputy Director Rut presented for ratification the May Examination 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 Dohse to ratify the May Examination Report for the purpose of issuing licenses. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

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 Approval

Director Lemon presented for ratification the Continuing Education Provider 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 Peter and seconded by Dohse to ratify the four reports. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman, and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Minutes from Education Advisory Group – May 25, 2023

Director Lemon presented the Minutes from the Education Advisory Group from May 25, 2023, a copy of which is attached to and made a part of these minutes.

Director Lemon explained that he felt the meeting was informative. The group discussed a few aspects of the new examination contract and changes to the rule and regulations as it relates to the education. Director Lemon also noted that the pending rules and regulations change the procedures to the commission-approved training which will be similar to continuing education procedures. The pending rules and regulations changes are at the Governor's office waiting approval.

No action was necessary on this report.

Review of Information on Exam Score Reports

Director Lemon presented a memo regarding exam score reports, a copy of which is attached to and made a part of these minutes.

Director Lemon explained that currently the Commission provides a breakdown of the scores per portion of the examination when an applicant fails the examination, however, for passing scores they get a pass only score with no breakdown. He explained that while more information is better in some cases, he is seeking guidance in this case. He noted that in most states they do not provide the breakdown for passing scores. He further explained that the education advisory group discussed score reports and they were in support of offering the breakdown for passing scores.

There was discussion regarding the pros and cons to providing the breakdown and how they could potentially use that information. There was further discussion whether the information would become public information. Deb Airola and Andy Alloway both indicated that they received the passing score reports with the breakdown when they took the test and thought it was very helpful.

Director Lemon indicated that due to the time sensitivity of this matter that should the Commission decide to change this from a passing score to the breakdown, he would be seeking that motion at today's meeting otherwise the Commission could discuss this further and change in the future if desired.

It was the consensus of the Commission that the passing score report not change at this time until Director Lemon reports back to the Commission about the report becoming a public record and what impact this may have on the applicants.

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 Complaint 2023-010 – Kathy Wickstrom v. Cassidee Shae Reeve

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 Gehrki and seconded by Starman that dismiss and letter of admonishment sent to the prominence of disclaimer and efforts undertaken that there are no new listing agreements. Motion carried with Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Dohse voting nay, and with Ritter not participating or voting, being absent and excused.

Item B Complaint 2022-023 – Maria Diaz vs. Melanie Karol Stanford & Jeremy Joseph Murray

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 Peter and seconded by Gehrki that the complaint be dismissed without prejudice. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Item D 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 Dohse and seconded by Peter 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 Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye, with Ritter 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

June 15, 10:30 a.m. - Show-Cause Hearing on SC2023-001, Commission vs. Chris Rood

A Hearing was held on June 15, 2023, at 10:43 a.m., in the matter of SC2023-010. John Weis, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondent Chris Rood was present via telephone without Counsel.

Counsel Weis offered 7 Exhibits and Mr. Rood offered 4 Exhibits, all which were received by Chairperson Evnen. After Opening Statements, Counsel Weis called Samantha Lowery as a witness. Mr. Rood called January Neveu as a witness.

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

The Commission deliberated on the matters adduced at hearing.

At 12:22 p.m., a motion was made by Starman and seconded by Gehrki to go into closed session to deliberate matters and to protect the reputation of Mr. Rood. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

At 12:44 p.m., a motion was made by Peter and seconded by Starman to reconvene in open session. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

A motion was made by Gehrki and seconded by Starman in Complaint SC2023-001, that Chris Rood violated Neb. Rev. Stat. § 81-885.03 and that the Respondent should be fined three hundred and fifty dollars each day for the twenty-six days he was out of compliance, totaling

nine thousand one hundred dollars. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

With the consent of the Respondent, Chairperson Evnen directed Counsel Weis to prepare the Order.

Chairperson Evnen notified the Respondent that as a part of the Order in this matter, the Respondent is required, under Nebraska Revised Statutes Section 84-914(1) and Title 305 Nebraska Administrative Code, Chapter 4-007.05, to pay the costs of the appearance fee by the court reporter, and any and all witness fees, including mileage and the cost of serving any witness. The Respondent will be billed by the Commission Office, or the amount may be specified in the Order, and will have thirty days from receipt of the costs to totally reimburse the Commission.

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

The Hearing was adjourned at 12:49 p.m.

**June 15, 1:30 p.m. – Petition for Review Hearing on
P2023-001, Elizabeth Michelle Ramos v. Commission**

The Hearing scheduled for June 15 at 1:30 p.m., in the matter of P2023-001 was cancelled. The petitioner withdrew the petition for review.

Informal Special Appearances

There were no Informal Special Appearances scheduled for this meeting.

2022-2023 Objectives – Final Report

Director Lemon presented an exhibit regarding the 2022-2023 objectives of the Commission. A copy of said exhibit 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 date listed in item 9 was set forth as “May 23” when, in fact, the date should have been “May 25”. The Exhibit was corrected for attachment to these minutes.)

Director Lemon explained accomplishments made on each of the objectives.

No action was necessary on this report.

Consider 2023-2024 Objectives

Director Lemon presented an exhibit regarding the proposed 2023-2024 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained each of the proposed objectives.

Commissioner Starman suggested adding legislation to prevent excessive lengths of listing agreements and liens on properties. She also suggested adding Advertising interpretations as part of the proposed objectives.

A motion was made by Dohse and seconded by Gehrki to adopt the Commission Objectives as amended. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Consider Renewal of Errors and Omissions Insurance Contract with Rice Insurance Services Center for 2024

Director Lemon presented an exhibit regarding the 2024 Renewal of Contract Quotation from Rice Insurance Services Center. 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.

A motion was made by Starman and seconded by Gehrki to approve the renewal of contract with Rice Insurance Services Center for 2024 as presented. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Consider Finance Subcommittee Recommendation for Selection of Special Assistant Attorneys General

Director Lemon presented the finance subcommittees recommendation for selection of special assistant attorneys general. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that the contract had expired with the current special assistant attorneys general, so the subcommittee had sent out letters to receive bids to review. The subcommittee received and reviewed three proposals. Upon review, Mattson Rickets law firm offered the services of J.L. Spray and Stephen Mossman was the Subcommittee's recommendation to represent the Commission for the next two-year contract. He further explained that should the Commission agree to change law firms a letter would be sent to the Attorney General's office requesting appointment.

A motion was made by Starman and seconded by Gehrki to present the recommendation to the Attorney General. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Use of Logos in Broker and Affiliated Licensee Advertising

Director Lemon presented an exhibit explaining advertising, use of logos, and broker prominence. A copy of said exhibit is attached to and made a part of these minutes. Stephen Andrew Alloway was present to discuss this matter.

Director Lemon discussed the laws and prominence of the logos in advertising. He indicated that the Commission staff reviews advertising submissions and gives licensees their opinions and options on fixing their advertising to comply with the laws. The Commission typically looks at the footprint of brokerage name including the logos when considering whether the advertising meets broker prominence and equal to or greater than the affiliated licensee or team name

requirements, it has become more prevalent for affiliated licensees of team members to use a logo associated with their name. Director Lemon is asking for guidance on how to review for prominence in advertising using brokerage and affiliated licensee logos.

Mr. Alloway distributed sample advertisings and Guidance Document on Advertising Do's and Don'ts from the Commission's website. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 18a.

Mr. Alloway indicated that advertising continues to change, and it is not just teams anymore that are branding themselves, but individual agents too. He indicated that he is requesting guidance or consideration on how to apply common sense standard to the advertising laws. He indicated that in the samples provided, the advertising did not deceive the public in his opinion, the licensees are trying to comply with the laws, but it may just be out of balance due to image size or font due to length of name for example. He further explained that if the advertising is not harming the public, the reviews can be onerous on the Commission Staff, brokers, and licensees as well as expensive.

There was discussion regarding the wording in the laws, and rules and regulations. They also discussed those that have received fines for advertising violations. They further discussed, how define the footprint, and the flexibility of the interpretation of the law.

Director Lemon indicated that it is the desire of the Commission Staff to be consistent with their answers to the licensees.

Chairperson Evnen suggested that the Director Lemon review current use of advertising and advertising warnings and guidance issued by the Commission. To determine what parts of the prominence law are not being complied with in practice.

It was the consensus of the Commission that Director Lemon conducts the review and bring the results back to the Commission with suggestions.

Personnel Matter – Closed Session

At 1:22 p.m., a motion was made by Gehrki and seconded by Starman to go into closed session for discussion of personnel matters. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Chairperson Evnen indicated, prior to the closed session beginning, that the reason for the closed session was to discuss personnel matters.

At 2:04 p.m., a motion was made by Dohse and seconded by Gehrki to reconvene in open session. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

After reconvening in open, public session, a motion was made by Gehrki and seconded by Starman to increase Director Lemon's annual salary \$10,800.00 beginning July 1, 2023. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman and Evnen voting aye, with Ritter not participating or voting, being absent and excused.

Legislative Matters – Final Report

LB 16 - No new information presented.

LB 43 - No new information presented.

LB 92 – Director Lemon reported that the bill had been approved by the Governor on June 6, 2023.

LB 151 – No new information presented.

LB 152 – No new information presented.

LB 628 – No new information presented.

LB 684 – No new information presented.

No action was necessary with regard to these matters.

Information Matters

ARELLO Annual Meeting - September 18-22, 2023 - Montreal, QC, Canada

Deputy Director Rut explained that the deadline for registration is August 2, 2023, and asked which Commissioners were planning on attending the conference.

No action was necessary on this report.

Instructor Development Workshop

Director Lemon explained that the Instructor Development Workshop would be held on July 20th

Director Lemon indicated that the mailing was sent to all pre-license instructors and continuing education providers and potential instructors. He also noted that attendees would receive six hours of continuing education.

No action was necessary with regard to these matters.

Future Meeting Dates

August 17-18, 2023- Graduate Lincoln, Lincoln
September 14-15, 2023- Country Inn and Suites, Lincoln
October 19-20, 2023- Country Inn and Suites, Lincoln
November 9, 2023- Graduate Lincoln, Lincoln

Recesses and Adjournment

At 10:29 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:43 a.m.

At 2:12 p.m., there being no further business to come before the Commission, a motion was made by Gehrki and seconded by Dohse that the meeting adjourn. Motion carried with Dohse, Gehrki, Geiser, Peter, Starman, and Evnen voting aye, and with Ritter 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 June 15, 2023, meeting of the Nebraska Real Estate Commission were available for inspection on June 30, 2023, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Yahaira Ramirez, Nebraska Real Estate Commission, Lincoln
Lizbeth Hernandez, Nebraska Real Estate Commission, Lincoln
Deb Airola, REA, Omaha
Sulyn Medvin, Nebraska Real Estate Commission, Lincoln
Ryan Swinney, Nebraska REALTORS® Association, Lincoln
Ashlee Hendrickson, Nebraska REALTORS® Association, Lincoln
Kim Braaten, Nebraska REALTORS® Association, Lincoln
Andy Alloway, Nebraska Realty, Omaha
Connie Burleigh, CJ Burleigh Real Estate, Lincoln