

NEBRASKA REAL ESTATE COMMISSION

September 14, 2023

Country Inn & Suites

Lighthouse Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on September 14, 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. Also present were Director Greg Lemon, Deputy Director for Enforcement Samantha Lowery, and Deputy Director for Licensing Monica Rut. J.L. Spray, Special Assistant Attorney General and Counsel to the Commission, were present for the Sinclair 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 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 northwest 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 items 11c and 15 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 Gehrki to adopt the final agenda as presented. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

Minutes of August 17, 2023

The minutes of the Commission meeting held on August 17, 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, Peter, Ritter, Starman and Evnen voting aye.

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.

Receipts and Expenditures Report for August

Director Lemon presented the Receipts and Expenditures Report for August. 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 August 31, 2023, was \$1,485,836.46, which compared to a cash fund balance of \$1,482,702.35 on August 31, 2022.

After discussion, a motion was made by Dohse and seconded by Gehrki to file the August Receipts and Expenditures Report for audit. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

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 Starman and seconded by Peter to ratify issuance of the licenses as set forth in the report. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

License Statistic Report for August

Deputy Director Rut presented the License Statistic Report for the month of August, a copy of which is attached to and made a part of these minutes.

No action was necessary on this report.

Examination Report - August

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

Commissioner Dohse indicated that the past sixty days with the current testing company vendor were not acceptable should they wish to be a vendor in the future.

After review, a motion was made by Ritter and seconded by Gehrki to ratify the August Examination Report for the purpose of issuing licenses. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

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 Activity Approval

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

Commission-Approved Training Activity Recognition

Deputy Director Daily 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 Dohse and seconded by Starman to ratify the two reports. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

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 2022-027 - Cheri R. Dean vs. Jaclyn Marie Lunzmann & Jody Ann Adams

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 Dohse and seconded by Gehrki that the complaint be dismissed without prejudice. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

Item B Complaint 2023-004

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 Ritter and seconded by Gehrki that the complaint be set for hearing per Staff Recommendation. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

Presentation of Stipulation and Consent Orders

Complaint 2020-023, Christopher & Kerry Bylund vs. John J. Hanson

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2020-023, Christopher & Kerry Bylund vs. John J. Hanson. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Peter and seconded by Ritter to enter into the Order as presented. Motion carried with Dohse, Geiser, Peter, Ritter, Starman and Evnen voting aye, and with Gehrki abstaining.

Complaint 2023-013, Judy Evans v. Elizabeth Ann Nielsen

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2023-013, Judy Evans v. Elizabeth Ann Nielsen. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Dohse and seconded by Ritter to enter into the Order as presented. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

Complaint SC2023-003, Commission vs. Jacob Blank - Fast Wholesale Deals

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint SC2023-003, Commission vs. Jacob Blank - Fast Wholesale Deals. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Starman and seconded by Peter to enter into the Order as presented. Motion failed with Starman and Peter voting aye, and with carried with Dohse, Gehrki, Geiser, Ritter, and Evnen voting nay.

Disciplinary Hearings

September 14, 10:30 a.m. - Show-Cause Hearing on SC2023-002, Commission vs. James Leroy Sinclair

A Hearing was held on September 14, 2023 at 10:32 a.m., in the matter of SC2023-002. J.L. Spray, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondent James Leroy Sinclair was present without Counsel.

After opening statements, Counsel Spray offered fifteen Exhibits, all of which were received by Chairperson Evnen. Counsel Spray called Samantha Lowery as a witness. Mr. Sinclair called himself 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 11:34a.m., a motion was made by Gehrki and seconded by Ritter to go into closed session to deliberate matters and to protect the reputation of Mr. Sinclair. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

At 12:11 p.m., a motion was made by Gehrki and seconded by Starman to reconvene in open session. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

A motion was made by Peter and seconded by Starman in Complaint SC2023-002, that James Leroy Sinclair failed to abide by the cease and desist order and should pay a \$5,000 penalty for his unlicensed activity. After further discussion, an amendment was offered by the mover to change the amount to \$6,250. The amendment was accepted by the second. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

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 12:13 p.m.

Informal Special Appearances

Brigitta Stoncius, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Ms. Stoncius' explained the situations regarding her criminal history.

A motion was made by Ritter and seconded by Starman that Ms. Stoncius not be allowed to sit for the salesperson examination at this time. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

Rusty Lee Rhynalds, Broker Applicant

Director Lemon presented exhibits which included: correspondence regarding Mr. Rhynalds' special appearance; a letter of explanation from Mr. Rhynalds; character reference letters for

Mr. Rhynalds; Mr. Rhynalds' broker application form; and Mr. Rhynalds Kansas Real Estate Commission disciplinary reports. A copy of said exhibit is attached to and made a part of these minutes. Mr. Rhynalds was present.

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Rhynalds explained the situations regarding his license history.

A motion was made by Dohse and seconded by Gehrki that Mr. Rhynalds not be allowed to sit for the broker examination at this time. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

Consider 2024 Legislative Proposals

Director Lemon presented an exhibit of the proposed legislative changes. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon indicated that there were three proposals to discuss regarding proposed legislation. The first proposal related to the prohibiting of long term listing agreements which the Commission wanted to be proactive in getting passed. This type of listing is a predatory practice and not good for the industry or consumers. He indicated that there are two different approaches to this legislation and is seeking the Commissions guidance, as to whether to introduce legislation which changes to the license act or to generally prohibit the practice whether conducted by a licensee or not. It was the consensus of the Commission to work with the Nebraska REALTORS® Association so that there would be significant consequences in place for conducting such predatory practices.

The second proposal related to raising the fining authority of the Commission per complaint from \$2,500 to \$5,000 or the commission earned on the transaction, whichever is greater. It was the consensus of the Commission to move this proposal forward.

The third proposal related to an objective item to increase errors and omissions insurance policy terms from one year to two years. The license act would need to be amended to provide for this accommodation. It was the consensus of the Commission to move this proposal forward.

Buyer Agency Lawsuits

Director Lemon discussed the topic of class action lawsuits that were occurring based on buyer agency laws in other states. He was bringing this to the attention of the Commission as a preventative measure and would continue to monitor in conjunction with Nebraska REALTORS® Association.

Information Matters

ARELLO Annual Conference – September 18-22, 2023 – Montreal, QC, Canada

Director Lemon explained that Deputy Director Rut and himself were planning on attending the conference.

No action was necessary on this report.

ARIS Conference – October 10-12, 2023 – Omaha, NE

Director Lemon reported that the ARELLO's Investigators conference would be held in Omaha and encourages those interested to sign up.

No action was necessary on this report.

Future Meeting Dates

October 12-13, 2023- Telegraph Lofts East Center, Lincoln
November 9, 2023- Graduate Lincoln, Lincoln
January 18-19, 2024 - TBD
February 22-23, 2024 - TBD
March 21-22, 2024 - TBD
April 25, 2024 - TBD
May 16-17, 2024 - TBD
June 20-21, 2024 - TBD

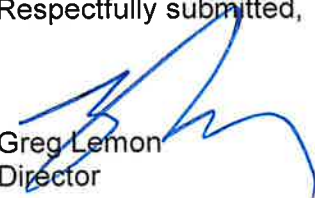
Recesses and Adjournment

At 10:22 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:32 a.m.

At 12:38 p.m., there being no further business to come before the Commission, a motion was made by Dohse and seconded by Starman that the meeting adjourn. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, Starman and Evnen voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the September 14, 2023, meeting of the Nebraska Real Estate Commission were available for inspection on September 25, 2023, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Charles Chadwick, CNC Realty, Omaha
Kim Braaten, Nebraska REALTORS® Association, Lincoln
Kim Zwiener, Lincoln
Leighun Brabec, Larabee School, Lincoln
Connie Burleigh, Lincoln

