

**NEBRASKA REAL ESTATE COMMISSION**

**May 25, 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 May 25, 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 Commissioner Titus, 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 Kesick 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, 9h and 11b 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, Bourne, Dover, Freeman, Stange and Gale voting aye, with Titus not participating or voting, being absent and excused.

**Minutes of April 20, 2017**

The minutes of the Commission meeting held on April 20, 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, Bourne, Dover, Freeman, Stange and Gale voting aye, with Titus 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.

## **Receipts and Expenditures Report for April**

Director Lemon presented the Receipts and Expenditures Report for April. 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 April 30, 2017, was \$1,901,260.08, which compared to a cash fund balance of \$1,613,987.60 on April 30, 2016.

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

## **Specialized Registrations**

### **Retirement Community Registration - Amendment for Immanuel Lakeside Village**

Director Lemon presented a specialized registrations report which included the registration of amendment to the retirement community registration for Immanuel Lakeside Village. A copy of said report is attached to and made a part of these minutes.

### **Membership 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

### **Time-Share Registrations - Amendment for Marriott Vacation Club Destinations**

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

A motion was made by Freeman and seconded by Stange to approve the amendments to the three registrations 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 Titus and seconded by Freeman 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 - April**

Deputy Director Roubal presented for ratification the April 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 April 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.

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.

### **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 Freeman and seconded by Bourne to ratify the five 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.

### **Instructor Development Workshop – July 20, 2017 – SCC - Lincoln, NE**

Deputy Director Roubal presented an exhibit regarding the Instructor Development Workshop, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal indicated that a mailing was sent to all pre-license instructors and potential instructors would be welcome as well. Deputy Director Roubal noted that this Workshop would be one day long

No action was necessary on this report.

### **Instructor Development Workshop Projected Expenses**

Deputy Director Roubal presented an exhibit regarding the projected expenses for the Instructor Development Workshop, a copy of which is attached to and made a part of these minutes.

A motion was made by Freeman and seconded by Alloway to approve the expenditures for the Instructor Development Workshop and to provide the Workshop free of charge. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

### **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 2016-011 - Jessie Joseph vs. John Gregory Linscott

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 Dover that the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

#### **Item B** Investigative Matter

Deputy Director Cell presented an investigative report to the Commission.

There was discussion regarding the investigation.

No action was necessary on this report.

**Item C Complaint 2016-010**

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 this complaint be dismissed without prejudice against Respondent #1. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

After being advised of the results of the investigation and discussion, a motion was made by Freeman and seconded by Alloway that this complaint be held in abeyance and a new complaint be filed against Respondent #2 for violations of Neb. Rev. Stat. §81-885.24(29) and §76-2422(4). Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

**Presentation of Stipulation and Consent Orders**

**Complaint 2016-001,  
Timothy A. Ogle vs. Z.Z. Ramazani**

Deputy Director Cell presented a Stipulation and Consent Order in the matter of Complaint 2016-001, Timothy A. Ogle vs. Z.Z. Ramazani. A copy of said Order is attached to and made a part of these minutes.

A motion was made by Freeman to decline the proposed Stipulation and Consent Order and propose that the Order include a two year probation with thirty days served on suspension plus three hours of additional continuing education in the area of professionalism and pay a civil fine of one-thousand five hundred dollars. The motion died for a lack of a second.

A motion was made by Bourne and seconded by Titus to decline the proposed Stipulation and Consent Order and propose that the Order include a two year probation with sixty days served on suspension plus three hours of additional continuing education in the area of professionalism and pay a civil fine of one-thousand five hundred dollars. Motion carried with Alloway, Bourne, Dover, Stange, Titus and Gale voting aye and with Freeman voting nay.

**Complaint 2015-023,  
Brian D. & Shannon M. Srb vs. David Lawton Kaseman**

Deputy Director Cell presented a Stipulation and Consent Order in the matter of Complaint 2015-023, Brian D. & Shannon M. Srb vs. David Lawton Kaseman. A copy of said Order is attached to and made a part of these minutes.

A motion was made by Bourne to decline the proposed Stipulation and Consent Order and propose that the Order include a one-hundred eighty day suspension, two-year's probation thereafter, and pay a civil fine of one-thousand dollars. The motion died for a lack of a second.

A motion was made by Bourne and seconded by Freeman to decline the proposed Stipulation and Consent Order and propose that the Order include a ninety day suspension, two-year's probation thereafter, and pay a civil fine of one-thousand dollars.

An amendment was offered by the second to include six additional hours of continuing education in the areas of license law and disclosures to be completed within 180 days of the date of the Order. The amendment was accepted by the mover.

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

## **Disciplinary Hearings**

### **Complaint 2015-027, Greg Wayman vs. Carolyn Jane Kesick**

A Hearing was held on May 25, at 10:00 a.m., in the matter of Complaint 2015-027, Greg Wayman vs. Carolyn Jane Kesick. Adam Prochaska, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondent Kesick was present and represented by Counsel Doug Ruge of Omaha.

After opening statements, Counsels Prochaska and Ruge jointly offered eight Exhibits, all of which were received by Chairperson Gale.

Counsel Prochaska called Duran Cell, Erica Shaw, Greg Wayman and Carolyn Kesick as witnesses.

At 11:53 a.m., Chairperson Gale declared a brief recess, and reconvened the Hearing at 12:04 p.m.

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

A motion was made by Commissioner Bourne to go into closed session for discussion of the Hearing. The motion died for a lack of a second.

The Commission deliberated on the matters adduced at hearing.

A motion was made by Freeman and seconded by Alloway in Complaint 2015-027, that the count of the complaint against Carolyn Jane Kesick based upon Neb. Rev. Stat. § 81-885.24(22) be dismissed. Motion carried with Alloway, Bourne, Freeman and Stange voting aye, and with Dover, Titus and Gale voting nay.

A motion was made by Titus and seconded by Dover in Complaint 2015-027 that Carolyn Jane Kesick be found in violation of Neb. Rev. Stat. § 81-885.24(29). Motion carried with Dover, Freeman, Stange, Titus and Gale voting aye and with Alloway and Bourne voting nay.

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 Titus and seconded by Dover in Complaint 2015-027, that Carolyn Jane Kesick should receive a civil fine of one-thousand dollars, plus six hours of additional continuing education in the areas of ethics and license law. Motion failed with Dover, Titus and Gale voting aye, and with Alloway, Bourne, Freeman and Stange voting nay.

A motion was made by Freeman and seconded by Alloway in Complaint 2015-027, that Carolyn Jane Kesick receive a censure.

An amendment was offered by Stange to add six hours of additional continuing education in the areas of ethics and license law. The amendment was accepted by the mover and the second.

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

With the consent of the Respondents, Chairperson Gale directed Counsel Prochaska to prepare the Order.

Chairperson Gale notified the Respondents that the costs incurred for the court reporter and any witness fees would be billed to the Respondents, as provided for in 305 NAC Chapter 4, and that the Respondents 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 1:05 p.m.

### **Informal Special Appearances**

#### **Susan Lynn Steele, Salesperson Applicant**

Director Lemon presented exhibits which included: correspondence regarding Ms. Steele's special appearance; a letter of explanation from Ms. Steele; character reference letters for Ms. Steele; Ms. Steele's salesperson application form; trial court cases from the State of Nebraska on Ms. Steele's cases; Ms. Steele's criminal history report and information regarding Ms. Steele's previous special appearance in June 2016. A copy of said exhibit is attached to and made a part of these minutes. Ms. Steele was present.

Chairperson Gale reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Freeman and seconded by Alloway to allow Ms. Steele to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Steele 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. Steele 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 two years. Motion carried with Alloway, Bourne, Dover, Freeman, Stange, Titus and Gale voting aye.

#### **John Robert Risley, Salesperson Applicant**

Director Lemon presented exhibits which included: correspondence regarding Mr. Risley's special appearance; a letter of explanation from Mr. Risley; character reference letters for Mr. Risley; Mr. Risley's salesperson application form; trial court cases from the State of Nebraska

on Mr. Risley's cases; and Mr. Risley's criminal history report. A copy of said exhibit is attached to and made a part of these minutes. Mr. Risley was present.

Chairperson Gale reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Freeman and seconded by Alloway to allow Mr. Risley to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Risley 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. Risley 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.

An amendment was made by the second to require Mr. Risley to attend monthly AA meetings and provide the Commission a report of such attendance on a quarterly basis. The amendment was agreed to by the mover.

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

#### **Megan L Hinson, Salesperson Applicant**

Director Lemon presented exhibits which included: correspondence regarding Ms. Hinson's special appearance; a letter of explanation from Ms. Hinson; character reference letters for Ms. Hinson; a letter from the District 11 Probation Office releasing Ms. Hinson from probation on February 14, 2014; Ms. Hinson's salesperson application form; and trial court cases from the State of Nebraska on Ms. Hinson's cases. A copy of said exhibit is attached to and made a part of these minutes. Ms. Hinson was present.

Chairperson Gale reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Bourne and seconded by Alloway to allow Ms. Hinson to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Hinson 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. Hinson 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. Ms. Hinson is also required to attend monthly AA meeting or a similar structured group and report to the Commission on a quarterly basis attendance for the period of three years. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye and with Dover voting nay.

#### **Legislative Matters**

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

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



**LB 16** – No new information presented.

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

**LB 127** – No new information presented

**LB 208** – No new information presented

**LB 257** – No new information presented

**LB 299** – No new information presented

**LB 312** – No new information presented

**LB 426** – No new information presented

**LB 549** – Director Lemon reported that there was a motion on this bill to suspend rules to indefinitely postpone on May 23, 2017. He explained that the bill was merged into LB 16 so the contents were passed under a different bill.

No action was necessary with regard to these matters.

#### **Information Matters**

##### **ARELLO Mid-Year Meeting – Louisville, KY – April 26-29, 2017 – Report of Attendees**

Director Lemon noted that Commissioners Freeman and Stange, and Deputy Director Rut and he attended the ARELLO Mid-Year Meeting.

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

No action was necessary on this report.

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

Director Lemon explained that the deadline for registration was May 23, 2017, and asked which Commissioners were planning on attending the conference. There were no Commissioners that had currently planned on attending the conference.

No action was necessary on this report.

#### **Future Meeting Dates**

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**

Commissioner Titus joined the meeting at 9:10 a.m.

At 10:10 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:20 a.m.

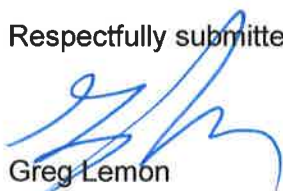
At 11:53 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 12:04 p.m.

At 1:10 a.m., Chairperson Gale declared a recess for lunch, and reconvened the meeting at 1:55 p.m.

At 3:30 p.m., there being no further business to come before the Commission, a motion was made by Alloway and seconded by Stange 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 May 25, 2017, meeting of the Nebraska Real Estate Commission were available for inspection on June 2, 2017, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon  
Director

## **Guests Signing the Guest List**

Jeff Hebb, Nebraska REALTORS® Association, Lincoln  
Judy Burford, CBSHome, Omaha  
Carl Rippy, Gateway Realty, North Platte  
Jim McCord, J.J. Palmtag, Nebraska City  
Joe Gehrki, CBSHome, Omaha