

NEBRASKA REAL ESTATE COMMISSION

September 17, 2020

Country Inn & Suites

Lincoln Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on September 17, 2020, in the Lincoln 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 Education Alane Roubal, Deputy Director for Enforcement Antwan Montague, and Deputy Director for Licensing Monica Rut. Adam Prochaska, Special Assistant Attorney General and Counsel to the Commission, was present for the Gibson 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 middle of the meeting room by the south 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 no agenda items 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 Dover to adopt the final agenda as presented. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Minutes of August 20, 2020

The minutes of the Commission meeting held on August 20, 2020, were considered.

After review, a motion was made by Titus and seconded by Gehrki to approve the minutes as presented. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus 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, 2020, was \$1,556,589.47, which compared to a cash fund balance of \$1,438,777.99 on August 31, 2019.

After discussion, a motion was made by Bourne and seconded by Dover to file the August Receipts and Expenditures Report for audit. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus 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 Bourne to ratify issuance of the licenses as set forth in the report. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Examination Report - August

Deputy Director Roubal presented for ratification the August 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 Dover to ratify the August Examination Report for the purpose of issuing licenses. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen 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 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.

Post-License Education Instructor Approval

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

Continuing Education Provider/Activity Approval

Deputy Director Roubal presented for ratification the Continuing Education Provider/Activity 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.

After review, a motion was made by Titus and seconded by Dover to ratify the six reports. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen 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

Deputy Director Montague 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 2020-005 – Rachel Pavelka vs. Karen Anne Hascall and 2020-006 - Rachel Pavelka vs. Kathleen G. Miller & Karen Anne Hascall

Deputy Director Montague 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 Ritter that the complaint be dismissed without prejudice. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Presentation of Stipulation and Consent Orders

**Complaint 2020-024,
Commission vs. Stacey J. Stracke**

Director Lemon presented a Stipulation and Consent Order in the matter of Complaint 2020-024 Commission vs. Stacey J. Stracke. A copy of said Order is attached to and made a part of these minutes.

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

**Complaint 2020-007,
Commission vs. Michael Anthony Sodoro**

Deputy Director Montague presented a Stipulation and Consent Order in the matter of Complaint 2020-007, Michael Anthony Sodoro. A copy of said Order is attached to and made a part of these minutes.

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

Disciplinary Hearings

Complaint 2019-018 Commission vs. Ryan Roby Gibson

A Hearing was held on September 17, 2020, at 10:30 a.m., in the matter of Complaint 2019-018, Commission vs. Ryan Roby Gibson. Adam Prochaska, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondent Ryan Roby Gibson was present and represented by Counsel Michael Matukewicz and Hattie Miller, of Omaha.

After Opening Statements, Counsel Prochaska offered eight Exhibits, all of which were received by Chairperson Evnen. Counsel Prochaska called Greg Lemon and Ryan Gibson as witnesses.

Counsel Matukewicz offered two Exhibits, all of which were received by Chairperson Evnen.

At 11:54 a.m., Chairperson Evnen declared a brief recess, and reconvened the Hearing at 12:04 p.m.

A motion was made by Titus and seconded by Gehrki that Complaint 2019-018, be dismissed without prejudice for failure to meet the burden of proof by the State. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Chairperson Evnen directed Counsel Prochaska to prepare the Order.

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

The Hearing was adjourned at 12:08 p.m.

Complaint 2020-030 Commission vs. William Todd Buettner & Susan Paulette Buettner

The Hearing regarding Complaint 2020-030, Commission vs. William Todd Buettner & Susan Paulette Buettner was continued at the request of the Respondent's Counsel.

Complaint 2018-010, 2018-011, 2018-012, 2018-013, 2018-014, 2018-031 Brian V. Sck, Et al., Ex rel. Nebraska Real Estate Commission, vs. Kay M. Meier, Frederic C. Meier, and Jim Christensen

The Hearing regarding Complaints 2018-010, 2018-011, 2018-012, 2018-013, 2018-014, 2018-031 Brian V. Sack, Et al., Ex rel. Nebraska Real Estate Commission, vs. Kay M. Meier, Frederic C. Meier, and Jim Christensen was continued.

Informal Special Appearances

Georgiy Mykhaylovych Ptashynskyy, Salesperson Applicant - Reappearance

Director Lemon presented an exhibit which included: correspondence regarding this special appearance; a letter of explanation from Mr. Ptashynskyy's; character reference letters for Mr. Ptashynskyy; trial court cases from the State of Nebraska on Mr. Ptashynskyy's cases and information regarding Mr. Ptashynskyy's previous special appearance in November 2019. A copy of said exhibit is attached to and made a part of these minutes. Mr. Ptashynskyy was present.

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Ptashynskyy explained the situations regarding his criminal history.

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

Commissioner Titus offered an amendment to include that Mr. Ptashynskyy 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. Ptashynskyy must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of two years. The amendment was accepted by the mover and the second.

Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Julian I. Jones, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Director Lemon distributed additional letters of reference for Mr. Jones. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13b1.

Mr. Jones explained the situations regarding his criminal history.

After discussion, a motion was made by Ritter and seconded by Titus to allow Mr. Jones to sit for the salesperson examination after making proper application and to have a license issued upon passing. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Daniel William Catalina, Preliminary Informal Special Appearance

Director Lemon presented exhibits which included: correspondence regarding Mr. Catalina's preliminary informal special appearance; a letter of explanation from Mr. Catalina; character reference letters for Mr. Catalina; Mr. Catalina's preliminary application for individuals with criminal convictions form; a copy of the City of Lincoln Police Department Public Record Criminal History listing provided by Mr. Catalina and trial court cases from the State of Nebraska on Mr. Catalina's cases. A copy of said exhibit is attached to and made a part of these minutes. Mr. Catalina was present.

Chairperson Evnen reviewed the procedure for preliminary informal special appearances.

Mr. Catalina explained the situations regarding his criminal history.

A motion was made by Bourne and seconded by Gehrki that the Director prepare an order outlining findings of fact and conclusions of law that the preliminary applicant is not qualified to be approved for licensure under the Nebraska Real Estate License Act based upon the criminal history and information provided at the preliminary special appearance. Motion failed with Bourne, Gehrki, and Evnen voting aye and with Dover, Ritter, Starman and Titus voting nay.

A motion was made by Titus and seconded by Ritter that the Director prepare an order outlining findings of fact and conclusions of law that criminal history information presented does not

disqualify the preliminary applicant from being approved for licensure under the Nebraska Real Estate License Act.

After further discussion, Commissioner Titus offered an amendment that Mr. Catalina 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. Catalina must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of two years. The amendment was accepted by the second.

Motion carried with Dover, Ritter, Starman and Titus voting aye and with Bourne, Gehrki, and Evnen voting nay.

Broker Qualification Review

September 17 – 9:35 a.m. – Steven Dale Fisser

Director Lemon presented exhibits which included: correspondence regarding Mr. Fisser's Broker Hardship Hearing; a letter of explanation from Mr. Fisser, character reference letters for Mr. Fisser, google reviews provided by Mr. Fisser; Mr. Fisser's Broker Applicant Hardship application form, and Mr. Fisser's Petition for Declaratory Order. A copy of said exhibit is attached to and made a part of these minutes. Mr. Simpson was present.

Chairperson Evnen reviewed the procedure for Broker Hardship Hearings.

Mr. Fisser explained the situation regarding the request for the hardship.

After discussion, a motion was made by Ritter and seconded by Starman that the Director prepare an order of the Commission that the applicant has not supplied sufficient relevant experience to qualify under the Hardship provision. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Information Matters

ARELLO Annual Conference - September 21-29, 2020 - Web Conference

Director Lemon explained that you may register for the conference at any time but there will be a mailing of material so registration is suggested prior to September 14, 2020. When registering, select "Invoice for my Regulatory Agency" for the method of payment.

No action was necessary on this report.

Database Update

Director Lemon explained that the licensee database was scheduled to be implemented on September 28, 2020. He indicated that the services provided as part of the new database include licensees and vendor portals which are being tested and anticipate a soft roll out of those services, as well as license renewals.

No action was necessary on this report.

Future Meeting Dates

October 14-15, 2020 – Country Inn & Suites, Lincoln
November 19-20, 2020 – Country Inn & Suites, Lincoln
January 21-22, 2021– Staybridge Suites, Lincoln
February 18-19, 2021– Country Inn & Suites, Lincoln
March 18-19, 2021– Country Inn & Suites, Lincoln
April 22-23, 2021– Country Inn & Suites, Lincoln
May 20-21, 2021– Country Inn & Suites, Lincoln
June 17-18, 2021– Country Inn & Suites, Lincoln

Recesses and Adjournment

At 10:09 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:26 a.m.


At 11:54 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 12:04 p.m.

At 12:08 p.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 12:14 p.m.

A 12:54 p.m., there being no further business to come before the Commission, the Chairperson declared the meeting adjourned.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the September 17, 2020, meeting of the Nebraska Real Estate Commission were available for inspection on September 24, 2020, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Leighun Brabec, Home Real Estate/Larabee School, Lincoln