

**NEBRASKA REAL ESTATE COMMISSION**

**October 12, 2023**

**Telegraph Lofts East Center**

**4<sup>th</sup> Floor Conference Room**

**Lincoln, NE**

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**Opening**

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on October 12, 2023, in the 4<sup>th</sup> Floor Conference Room of the Telegraph Lofts East Center, located at 200 South 21<sup>st</sup> St 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. Stephen D. Mossman, Special Assistant Attorney General and Counsel to the Commission, was present for the Cerveny Hearings.

**Swearing-In Ceremony- Commissioner Connie Burleigh**

Chairperson Evnen conducted a swearing-in ceremony for recently appointed Commissioner Connie Burleigh, presented her with her Commission pin, and welcomed her to the Commission.

**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 table next to the entrance of the meeting room; that a copy of the Open Meetings Act was posted on the easel located in the southeast corner 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 agenda items 11b had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Gehrki and seconded by Ritter to adopt the final agenda as presented. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

**Minutes of September 14, 2023**

The minutes of the Commission meeting held on September 14, 2023, were considered. (Note: It was discovered at the meeting that the Exhibit for this Agenda Item was incorrect. The time on page one was set forth as "9:0" when, in fact, the time should have been "9:00". On page six, the application type stated it was a Salesperson application, when in fact, it was a broker application. The minutes also referred to a Nebraska report on his trial court cases,

when in fact, it was a Kansas report. The minutes reflected that he explained his criminal history, when in fact, it explained his license history. The Exhibit was corrected for attachment to these minutes.)

After review, a motion was made by Dohse and seconded by Gehrki to approve the minutes as amended. Motion carried with Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye, and with Burleigh not voting having not been in attendance at the September 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.

### **Receipts and Expenditures Report for September**

Director Lemon presented the Receipts and Expenditures Report for September. 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 September 30, 2023, was \$1,425,882.23, which compared to a cash fund balance of \$1,441,583.45 on September 30, 2022.

After discussion, a motion was made by Gehrki and seconded by Peter to file the September Receipts and Expenditures Report for audit. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, 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 Peter and seconded by Ritter to ratify issuance of the licenses as set forth in the report. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

### **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.

Deputy Director Rut noted that the report would be provided to the Commission on a monthly basis.

No action was necessary on this report.

## **Examination Report - September**

Deputy Director Rut presented for ratification the September Examination 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 Gehrki to ratify the September Examination Report for the purpose of issuing licenses. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, 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**

### **Pre-License Education Course Approval**

Director Lemon presented for ratification the Pre-License Education Course Approval Report, a copy of which is attached to and made a part of these minutes.

### **Continuing Education Provider/Activity Approval**

Director Lemon 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**

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**

Deputy Director Daily 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 Provider/Activity Recognition**

Deputy Director Daily presented a Commission-Approved Training Provider/Activity Recognition 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 Activity Recognition 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 Ritter to ratify the six reports. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, 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 2023-025**

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 Ritter that this complaint be held in abeyance and an amended complaint be filed against the respondent per the Staff recommendation. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

### **Item B Complaint 2022-040**

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 Dohse that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report against the Buyer's agent only and dismiss the complaint against the Seller's agent and the Buyers agent's designated broker. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

### **Item C Investigative Matter**

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 Ritter and seconded by Dohse 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 Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

## **Presentation of Stipulation and Consent Orders**

### **Complaint 2022-024, Josh Heisinger vs. Ryan Patrick Hines**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2022-024, Josh Heisinger vs. Ryan Patrick Hines. 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 Burleigh to enter into the Order as presented. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

**Complaint SC2023-003,  
Mary Ahern vs. Robert Lawrence Cerveny**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint SC2023-003, Mary Ahern vs. Robert Lawrence Cerveny. A copy of said Order is attached to and made a part of these minutes.

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

**Disciplinary Hearings**

**Complaint 2022-044 – Kevin & Rebecca Pray v. Anthony Nelson Terp and Katie Lynn Milford**

The Hearing scheduled for Complaint 2022-044, Kevin & Rebecca Pray v. Anthony Nelson Terp and Katie Lynn Milford was continued.

**Complaint 2022-012 Mary Ahern v. Robert Lawrence Cerveny**

The hearing was called to order on October 12, 2023, at 1:02 p.m., in the matter of Complaint 2022-012, Mary Ahern v. Robert Lawrence Cerveny. Steven Mossman, Special Assistant Attorney General and Counsel to the Commission, appeared for the Complainant. Respondent Robert Lawrence Cerveny was present and represented by Counsel Doug Ruge of Omaha.

After Counsels Mossman and Ruge entered their appearance, Counsel Ruge offered for consideration a proposed settlement which included a \$2,000 dollar fine, six additional hours of continuing education in the area of License Law and Agency, and two years of probation.

Director Lemon noted that the Stipulation and Consent would be drafted and provided to Counsel following the meeting. Chairperson Evnen explained that the Hearing in the matter of Complaint 2022-012 would be continued pending the ratification of the settlement agreement. He requested that the Order be drafted and if Counsel was unable to resolve any issues that arise with the draft prior to the next month's Commission meeting it would go to Hearing, otherwise the Commission would review the Stipulation and Consent Order.

The Hearing was adjourned at 1:07 p.m.

**Informal Special Appearances**

There were no Informal Special Appearances to be presented at this meeting.

## **Legislative Matters**

### **Review Draft Legislation for 2024**

Director Lemon presented draft bills for possible introduction in 2024. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon discussed the three draft bills as presented. He indicated that due to the timing of receipt of the bills, he had not sent them out to other interested parties but will do so with the Commissions approval after this meeting. Director Lemon noted the other interested parties that he would be sending the draft legislation to would be the Nebraska REALTORS® Association, as well as the Nebraska Bankers Association.

After discussion, a motion was made by Gehrki and seconded by Ritter to Authorize director to circulate the drafted bills to interested parties, collect the comments, and put on November Commission meeting agenda. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

### **Consider Deficit Request for Personal Services Limitation Increase**

Director Lemon explained that the cash fund that is reviewed with the Commission each month is equivalent to the Commissions checking account. Every two years the Legislature sets an appropriation amount that can be spent by the Commission, and they also set the Personnel Services Limitation (PSL) which is the amount we can spend on salaries for staff. He indicated that each position in the Commission has a salary range and at this time we are close to the limit even if all new hires are started at the minimum hiring rate. The current job market is such that applicants wish to be hired above the starting wage and without adequate PSL the hiring is more difficult. He noted that a deficit request would allow for more flexibility for not only vacant positions but current staff as well. He indicated that he has not identified an exact number but estimated it to be between ten and twenty thousand dollars. He further explained that the deficit request filing is due at the end of October.

After discussion, a motion was made by Peter and seconded by Dohse to approve the deficit request to increase the PSL as determined by the Director. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

## **Information Matters**

### ***ARELLO Annual Conference– September 18-22, 2023 - Montreal, QC, Canada - Report of Attendees***

Director Lemon noted that Deputy Director Rut and he attended the ARELLO Annual Conference.

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

No action was necessary on this report.

## **ARIS Conference - October 10-12, 2023 - Omaha, NE – Report of Attendees**

Director Lemon noted that Deputy Director Rut, Deputy Director Lowery, and he attended the ARELLO ARIS Conference.

Each of the Attendees discussed their experiences at the ARELLO ARIS Meeting.

No action was necessary on this report.

## **Errors and Omissions Loss Report – Third Quarter 2023**

Director Lemon presented the Errors and Omissions Loss Report – Third Quarter 2023. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

## **Commission Objectives 2023-2024– Quarterly Report**

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 objectives and the progress made on each.

Commissioner Ritter indicated that based on discussion at the current and prior meetings, she would like to propose adding an additional thirty-hour course to the license requirement. There was discussion regarding the possibility of adding mandatory testing after each of the prelicense education courses. Director Lemon indicated that he would put the issue of education requirements on the agenda for the next Commission meeting where there would be adequate time to discuss the possible changes, and that the Education Advisory Committee and ask the Nebraska REALTORS® Association should also be solicited for input.

No action was necessary at this time.

## **Future Meeting Dates**

November 9, 2023 - Graduate Lincoln, Lincoln

January 18-19, 2024 - TBD

February 22-23, 2024, TBD

March 21-22, 2024, TBD

April 25-26, 2024, TBD

May 16-17, 2024, TBD

June 20-21, 2024, TBD

## **Recesses and Adjournment**

At 10:45 a.m., Chairperson Evnen declared a recess for lunch, and reconvened the meeting at 1:02 p.m.

At 1:08 p.m., there being no further business to come before the Commission, a motion was made by Ritter and seconded by Dohse that the meeting adjourn. Motion carried with Burleigh, Dohse, Gehrki, Geiser, Peter, Ritter, and Evnen voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the October 12, 2023, meeting of the Nebraska Real Estate Commission were available for inspection on October 16, 2023, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,

  
Greg Lemon  
Director

**Guests Signing the Guest List**

Ashley Hendrickson, Nebraska REALTORS® Association, Lincoln

Chris Burleigh, Lincoln

Charles Chadwick, CNC Realty, Omaha

Kim Braaten, Nebraska REALTORS® Association, Lincoln

Dan Epstein, KW Elite, Omaha

Alice Morrison, Omaha

Scott Vogt, BHHS Ambassador, Omaha

Heather Hanika, BHHS Ambassador, Omaha