

AGENDA

SOUTH DAKOTA REAL ESTATE COMMISSION
300 S SYCAMORE AVE, SIOUX FALLS, SD 57110
TUESDAY, NOVEMBER 8, 2016
8:30 A.M. CST

1. Call to Order
2. Approval of Agenda
3. Minutes of the September 7 and October 4, 2016 Meetings
4. Financial Reports – September & October 2016
5. Draft Legislation on Teams (From SDRA)
6. Approval of Consent Agreements and Assurance of Voluntary Compliance
7. Approval or Denial of Applications
8. Complaints
 - A. 2017-001
 - B. 2017-005
9. Formal Hearing - 10:30 A.M.
10. 2017 Meeting Dates
11. Other Business
12. Next Meeting - January 10-11, 2017
13. Adjourn

SOUTH DAKOTA REAL ESTATE COMMISSION
KNEIP BUILDING
SEPTEMBER 7, 2016
700 GOVERNORS DRIVE
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened at 9:30 a.m. on September 7, 2016. Present for the meeting were Vice Chairman Ken Cotton and Commission members David Bonde, Matt Krogman and Mark Wahlstrom. Chairman Ryan Wordeman was not present for the meeting. Also present were executive director Melissa Miller, licensing program administrator Norma Schilling and Department of Labor and Regulation Deputy Secretary Tom Hart.

Roll call of Commission members was heard.

Motion by Krogman, seconded by Wahlstrom, to approve the agenda as presented. Motion carried.

Motion by Bonde, seconded by Wahlstrom, to approve the minutes of the July 14, 2016 meeting. Motion carried.

Motion by Krogman, seconded by Bonde, to approve the financial reports for July & August 2016. Motion carried.

Motion by Wahlstrom, seconded by Krogman, to approve the consent agreement for Kim Petit for violation of SDCL 36-21A-71(1), (2), & (30), SDCL 36-21A-130 and SDCL 36-21A-136. Ms. Petit agrees to the following:

- (a) Ms. Petit shall pay an administrative fine in the amount of \$1,000 to the Commission by October 31, 2016;
- (b) Ms. Petit shall pay for, attend, and successfully complete the following Commission approved education courses in an in-classroom setting:
 1. Contracts – 6 hours;
 2. Laws – 6 hours; and
 3. Agency – 6 hours.

Ms. Petit shall submit written proof of completing the required education by March 31, 2017. For purposes of this agreement, "in-classroom setting" means a class offered in the traditional classroom setting with the instructor and a body of students present in the same room. The courses may not be distance education offerings. The required course work will not count toward Ms. Petit's continuing education requirement for maintaining her license;

- (c) Ms. Petit agrees that if she fails to comply with 17(a) of this Agreement, then she shall pay an additional administrative penalty in the amount of \$1,000, totaling \$2,000, to the Commission by November 30, 2016;
- (d) Ms. Petit agrees that if she fails to comply with 17(b) or 17(c) of this Agreement, then her license shall be immediately suspended starting April 15, 2017, through May 15, 2017.

Motion carried.

Motion by Wahlstrom, seconded by Bonde, to approve the consent agreement for Clint Ackerman for violation of SDCL 36-21A-71(1) and SDCL 36-21A-52. Mr. Ackerman will pay an administrative fine in the amount of \$100 to the South Dakota Real Estate Commission within 15 days of receipt of a signed copy of the consent agreement. Motion carried.

The executive director updated the Commission on changes that will be taking place regarding renewals. E & O insurance renewals will be handled directly through Rice Insurance Services Company starting this year. Licensees will also be able to print their licenses online.

The executive director is working on filling the position currently held by Norma Schilling due to her retirement on October 7, 2016.

Compliance officer Michelle Metzinger briefed the Commission on Complaint 2016-099.

Motion by Krogman, seconded by Wahlstrom, to dismiss Complaint 2016-099. Motion carried.

Compliance officer Michelle Metzinger left the meeting at 9:52 a.m.

The next regular meeting of the Commission will be held November 8 & 9, 2016.

Discussion was held on a request to make a change on the purchase agreement regarding closing and loan fees.

The Commission recessed at 10:00 a.m. and reconvened at 10:28 a.m.

The hearing on the application appeal of Cieara Hyronemus was convened at 10:30 a.m. with Hearing Examiner Catherine Duenwald of the Office of Hearing Examiners presiding. Present for the hearing were Vice Chairman Ken Cotton and Commission members David Bonde, Matt Krogman and Mark Wahlstrom, Department of Labor and Regulation Deputy Secretary Tom Hart, executive director Melissa Miller, licensing program administrator Norma Schilling, legal counsel Lindsey Riter-Rapp and Cieara Hyronemus. The hearing closed at 11:11 a.m.

Motion by Wahlstrom, second by Krogman, to enter into executive session at 11:17 a.m. pursuant to SDCL 1-25-2(3). Motion carried.

The Commission reconvened to regular session at 11:45 a.m.

There being no further business, motion by Bonde, seconded by Wahlstrom, to adjourn at 11:46 a.m. Motion carried.

Minutes submitted by Norma Schilling

Ken Cotton, Vice Chairman

Melissa Miller, Executive Director

SOUTH DAKOTA REAL ESTATE COMMISSION
TELEPHONIC MEETING
OCTOBER 4, 2016
221 W CAPITOL AVE, STE 101
PIERRE, SOUTH DAKOTA

The South Dakota Real Estate Commission convened telephonically at 10:03 a.m. on October 4, 2016. Present for the meeting were Chairman Ryan Wordeman and Commission members David Bonde, Kenneth Cotton and Matt Krogman. Commission member Mark Wahlstrom was not present for the meeting. Also present were executive director Melissa Miller, licensing program administrator Norma Schilling, Department of Labor and Regulation legal counsel Graham Oey, Department of Labor and Regulation Deputy Secretary Tom Hart and Stephanie Howard.

Roll call of Commission members was heard.

Motion by Cotton, seconded by Bonde, to approve the agenda as presented. Motion carried by roll call vote.

Motion by Cotton, seconded by Bonde, to affirm the proposed decision of Hearing Examiner Catherine Duenwald to reverse the Commission's previous ruling regarding Ciara Hyronemus and grant her a Residential Rental Agent license. Motion carried by roll call vote.

Commission member Matt Krogman joined the meeting at 10:06 a.m.

Motion by Bonde, seconded by Krogman, to enter into executive session pursuant to SDCL 1-25-2(3) at 10:07 a.m. Motion carried by roll call vote.

Commission reconvened to regular session at 10:20 a.m.

Motion by Cotton, seconded by Krogman, instruct legal counsel to draft necessary paper work to enter into an Assurance of Voluntary Compliance in lieu of a consent agreement, with the same terms as the proposed consent agreement, in Complaint 2016-096 for alleged violation of SDCL 36-21A-71(1), (2), & (31), SDCL 36-21A-130, SDCL 36-21A-136, SDCL 36-21A-147, and ARSD 20:69:16:01. Licensee agrees to the following:

- (a) Licensee shall pay an administrative fine in the amount of \$1,000.00 to the Commission by October 31, 2016;
- (b) Licensee shall pay for, attend, and successfully complete the following Commission approved education courses in an in-classroom setting:
 - (1) Responsible Broker Course – 15 hours.

Licensee shall submit written proof of completing the required education by March 31, 2017. For purposes of this agreement, "in-classroom setting" means a class offered in the traditional classroom setting with the instructor and a body of students present in the same room. The courses may not be distance education offerings. The required course work will not count toward Mr. Bowers' continuing education requirement for maintaining his license:

- (c) Licensee agrees that if he fails to comply with 14(a) of this Agreement, then he

- shall pay an additional administrative penalty in the amount of \$1,000.00, totaling \$2,000.00, to the Commission by November 30, 2016; and
- (d) Licensee agrees that if he fails to comply with 14(b) or 14(c) of this Agreement, then his license shall be immediately suspended starting April 15, 2017, through May 15, 2017.

Motion carried by roll call vote.

There being no further business, motion by Bonde, seconded by Krogman, to adjourn at 10:23 a.m. Motion carried by roll call vote.

Minutes submitted by Norma Schilling

Ryan Wordeman, Chairman

Melissa Miller, Executive Director

Revenue Report Ending 9/30/16

(Additional Report)

Description	Budgeted	Current	Rev. to be Rec	YTD	PCT Rec.
Residential Rental Agents	2,000	180	1,400	600	30
Auctioneer	450	0	450	0	
Broker	50,000	4,275	38,075	11,925	24
Home Inspectors	4,000	200	3,600	400	10
Property Manager	5,000	225	3,650	1,350	27
Sales Agents	3,000	225	2,550	450	15
Timeshare Agents	1,000	0	1,000	0	
Firms	7,000	400	6,100	900	13
Condominiums	7,000	407	5,414.67	1,585.33	23
Timeshare Projects	6,000	0	5,000	1,000	17
Educational Courses	14,000	1,900	10,465	3,535	25
Additional Licenses	2,000	300	1,550	450	23
Change of Address	7,000	690	5,545	1,455	21
Certificate of Licensure	2,500	300	1,705	795	32
Late Renewal Fees	9,000	0	9,000	0	
Renewal Res Rental Agents	2,500	0	2,500	0	
Renewal Auctioneer	4,000	0	4,000	0	
Renewal Broker	155,000	0	155,000	0	
Home Inspection Renewal	5,000	0	5,000	0	
Renewal Property Manager	9,000	0	9,000	0	
Renewal Sales Agents	12,000	0	12,000	0	
Renewal Timeshare Agents	1,000	0	1,000	0	
Renewal Firms	36,000	0	36,000	0	
Renewal Timeshare Project	5,000	0	5,000	0	
Renewal Additional Licenses	4,000	0	4,000	0	
Misc. Fines and Penalties	12,000	1,216	8,784	3,216	27
Interest Earned	6,500	0	(273.25)	6,773.25	104
License Law Books Sold	1,500	8	1,484	16	1
Directories/Guide Sold	4,000	280	2,740	1,260	32
Mailing Labels Sold	5,500	500	3,950	1,550	28
Seminar / Education Costs	31,000	12,540	14,920	16,080	52
Investigation Reimbursement	2,000	0	2,000	0	
	415,950	23,646	362,882.67 (273.25)	53,340.58	13%

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 09/30/2016

AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1037 REAL ESTATE COMMISSION

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	103700069901	1140000	266,685.81	DR	REAL ESTATE COMMISSION
6503	103700069902	1140000	101,356.19	DR	REAL ESTATE COMM RECOVERY FUND
COMPANY/SOURCE TOTAL 6503 699			368,042.00	DR *	
COMP/BUDG UNIT TOTAL 6503 1037			368,042.00	DR **	
BUDGET UNIT TOTAL 1037			368,042.00	DR ***	

BUDGET UNIT 1037

AVAILABLE FUNDS
AS OF: 09/30/2016
FY YEAR REMAINING: 75.1%
PAY DAYS REMAINING: 17

DATE 10/01/2016

BUDGET UNIT NAME REAL ESTATE COMMISSION

COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE
6503-I	579,988.00	0.00	0.00	93,322.95	126,350.22	360,314.83	368,042.00
BUDGETED TOT	579,988.00	0.00	0.00	93,322.95	126,350.22	360,314.83	
ALL COMP TOT	579,988.00	0.00	0.00	93,322.95	126,350.22	360,314.83	

TOTAL BUDGETED:

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE	BUDGET AVAILABLE	PCT AVL
5101 EMPLOYEE SALARIES	269,656.00	0.00	0.00	32,286.54	74,828.87	194,827.13	72.3
5102 EMPLOYEE BENEFITS	79,121.00	0.00	0.00	9,956.50	22,879.49	56,241.51	71.1
5203 TRAVEL	34,730.00	0.00	0.00	809.27	4,344.38	30,385.62	87.5
5204 CONTRACTUAL SVCS	164,781.00	0.00	93,160.95	4,342.21	16,224.57	55,395.48	33.6
5205 SUPPLIES & MATRLS	29,700.00	0.00	0.00	1,529.54	8,040.79	21,659.21	72.9
5207 CAPITAL OUTLAY	2,000.00	0.00	162.00	0.00	32.12	1,805.88	90.3
TOTALS	579,988.00	0.00	93,322.95	48,924.06	126,350.22	360,314.83	62.1

BREAKOUT BY COMPANY:

COMPANY	PROFESSIONAL & LICENSING BOARDS	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE	BUDGET AVAILABLE	PCT AVL
5101000	EMPLOYEE SALARIES	269,656.00	0.00	0.00	32,286.54	74,828.87	194,827.13	72.3
5102000	EMPLOYEE BENEFITS	79,121.00	0.00	0.00	9,956.50	22,879.49	56,241.51	71.1
5203000	TRAVEL	34,730.00	0.00	0.00	809.27	4,344.38	30,385.62	87.5
5204000	CONTRACTUAL SVCS	164,781.00	0.00	93,160.95	4,342.21	16,224.57	55,395.48	33.6
5205000	SUPPLIES & MATRLS	29,700.00	0.00	0.00	1,529.54	8,040.79	21,659.21	72.9
5207000	CAPITAL OUTLAY	2,000.00	0.00	162.00	0.00	32.12	1,805.88	90.3
PS SUBTOTALS		348,777.00	0.00	0.00	42,243.04	97,708.36	251,068.64	72.0
OE SUBTOTALS		231,211.00	0.00	93,322.95	6,681.02	28,641.86	109,246.19	47.2
COMPANY 6503-I	TOT	579,988.00	0.00	93,322.95	48,924.06	126,350.22	360,314.83	62.1

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 09/30/2016

AGENCY BUDGET CENTER	UNIT	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
LABOR & REGULATION REAL ESTATE COMMISSION						
COMPANY NO 10 COMPANY NAME 6503 PROFESSIONAL & LICENSING BOARDS						
103700069901	6503	4293700		RESIDENT RENTAL AGENTS	180.00	600.00
103700069901	6503	4293702		BROKER	4,275.00	11,925.00
103700069901	6503	4293703		HOME INSPECTORS	200.00	400.00
103700069901	6503	4293704		PROPERTY MANAGER	225.00	1,350.00
103700069901	6503	4293705		SALES AGENTS	225.00	450.00
103700069901	6503	4293707		FIRMS	400.00	900.00
103700069901	6503	4293708		CONDOMINIUMS	407.00	1,585.33
103700069901	6503	4293710		TIMESHARE PROJECTS	.00	1,000.00
103700069901	6503	4293711		EDUCATIONAL COURSES	1,900.00	3,535.00
103700069901	6503	4293712		ADDITIONAL LICENSES	300.00	450.00
103700069901	6503	4293713		CHANGE OF ADDRESS	690.00	1,455.00
103700069901	6503	4293714		CERTIFICATES OF LICENSURE	300.00	795.00
ACCT: 4293				BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	9,102.00	24,445.33
ACCT: 42				LICENSES, PERMITS & FEES	9,102.00	24,445.33
103700069901	6503	4393003		MISC FINES & PENALTIES	1,200.00	3,200.00
ACCT: 4393				PENALTIES (NON-GOVERNMENTAL)	1,200.00	3,200.00
ACCT: 43				FINES, FORFEITS & PENALTIES	1,200.00	3,200.00
103700069901	6503	4596002		LICENSE LAW BOOKS SOLD	8.00	16.00
103700069901	6503	4596003		DIRECTORIES/HOME BUYER GU	280.00	1,260.00
103700069901	6503	4596004		MAILING LABELS	500.00	1,550.00
ACCT: 4596					788.00	2,826.00
ACCT: 45				CHARGES FOR SALES & SERVICES	788.00	2,826.00
103700069901	6503	4896004		COS-EDUCATION COURSE COST	12,540.00	16,080.00
ACCT: 4896					12,540.00	16,080.00

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 09/30/2016

AGENCY BUDGET UNIT	10 1037	LABOR & REGULATION REAL ESTATE COMMISSION					
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE		
ACCT: 48		OTHER REVENUE		12,540.00	16,080.00	**	
103700069901	6503	4920045	NONOPERATING REVENUES	.00	5,417.06	*	
ACCT: 4920		NONOPERATING REVENUE		.00	5,417.06	*	
103700069901	6503	4950000	REFUND OF PRIOR YEARS EXP	16.00	16.00	*	
ACCT: 4950		REFUND OF PRIOR YEARS EXPENDITURES		16.00	16.00	**	
ACCT: 49		OTHER REVENUE		16.00	5,433.06	**	
CNTR: 103700069901				23,646.00	51,984.39	***	
103700069902	6503	4920045	NONOPERATING REVENUES	.00	1,356.19	*	
ACCT: 4920		NONOPERATING REVENUE		.00	1,356.19	*	
ACCT: 49		OTHER REVENUE		.00	1,356.19	**	
CNTR: 103700069902				.00	1,356.19	***	
COMP: 6503				23,646.00	53,340.58	****	
B UNIT: 1037				23,646.00	53,340.58	*****	

State of South Dakota

**DRAFT LEGISLATION
TEAM REGULATION**

October 24, 2016

BILL NO:

Introduced by: Senator(s) _____ and Representative (s) _____

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

"That § 36-21A-1 be **amended** to read:"

36-21A-1. Definition of terms. Terms used in this chapter mean:

(1) "Agency," any relationship by which one person acts for or on behalf of a client subject to the client's reasonable direction and control;

(2) "Agency agreement," a written agreement between a broker and a client which creates a fiduciary relationship between the broker and client. The payment or promise of payment of compensation to a responsible broker does not determine whether an agency relationship has been created between any responsible broker or licensees associated with the responsible broker and a client;

(3) "Auction," any public sale of real estate as defined in § 36-21A-11 or business property as defined in subdivision 36-21A-6 (3) at public offering to the highest bidder;

(4) "Auctioneer," any person licensed under this chapter who auctions, offers, attempts or agrees to auction real estate or business opportunities;

(5) "Broker associate," any broker acting in association with or under the auspices of a responsible broker;

(6) "Client," any person, including a seller/landlord or a buyer/tenant, who has entered into an agency relationship with a real estate licensee;

- (7) "Commission," the South Dakota Real Estate Commission;
- (8) "Consumer," any person seeking or receiving services from a real estate broker;
- (9) "Customer," any party to a real estate transaction who does not have an agency relationship with a licensee;
- (10) "Designated broker," any broker licensee designated by a responsible broker to act for the company in the conduct of real estate brokerage;
- (11) "In-company transaction," any transaction in which both the seller/landlord and the buyer/tenant receive real estate services from the same broker or from licensees associated with the same broker;
- (12) "Licensee," any person holding a license issued pursuant to this chapter;
- (13) "Limited agent," any licensee who has a written agency relationship with both the seller and the buyer in the same in-company transaction;
- (14) "Person," any individual, corporation, limited liability company, partnership, limited partnership, association, joint venture or any other entity, foreign or domestic;
- (15) "Purchaser," any person who acquires or attempts to acquire or succeeds to an interest in real property;
- (16) "Responsible broker," any person holding a broker's license issued pursuant to this chapter who is responsible for the real estate activities conducted by those licensees acting in association with or under the auspices of the responsible broker;
- (17) "Served actively," if referring to a real estate salesman or broker associate, having the license on an active status with the commission;
- (18) "Single agent," any licensee who represents only one party to a transaction;
- (19) "Subdivider," a person who causes land to be subdivided into a subdivision for that person or others, or who undertakes to develop a subdivision.

However, this does not include a public agency or officer authorized by law to create subdivisions;

(20) "Subdivision," or "subdivided land," any real estate offered for sale and which has been registered under the Interstate Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15 U.S.C. 1701 and following, as such Act existed on January 1, 1980, or real estate located out of this state which is divided or proposed to be divided into fifty or more lots, parcels, or units;

(21) "Team," any two or more persons licensed by the commission who (a) work under the supervision of the same responsible broker, (b) work together on real estate transactions to provide real estate brokerage services, (c) represent themselves to the public as being part of a team or group, and (d) are designated by a team or group name;

(22) "Team Leader," any person licensed by the commission and appointed or recognized by his or her responsible or designated broker as the leader for his or her team or group of licensees associated with the same responsible broker. A team leader shall have served actively for two years as a licensed broker associate;

(2123) "Transaction broker," a broker who assists one or more parties with a real estate transaction without being an agent or advocate for the interests of any party to the transaction. The term includes the licensees associated with the broker;

(2224) "Transaction broker agreement," a written agreement in which the broker does not represent either the seller or the buyer in a fiduciary capacity. No brokerage relationship can be created or implied by word or action alone, but only by written agreement clarifying the brokerage relationship.

That **SDCL 36-21A** be amended to add the following **NEW SECTION**:

Team Leader defined: A team leader shall be responsible for supervising the real estate activities of his or her team performed under the South Dakota Real Estate License Law subject to the overall supervision by the responsible broker.

"That **§ 36-21A-71** be **amended** to read:"

36-21A-71. Acts constituting unprofessional conduct. Unprofessional conduct includes the following:

- (1) Violating any provisions of this chapter or any rule promulgated by the commission;
- (2) Making a material false statement in the licensee's application for a license or in any information furnished to the commission;
- (3) Making any substantial and willful misrepresentation with reference to a transaction which is injurious to any party;
- (4) Making any false promise or advertisement of a character such as to influence, persuade or induce a party to a transaction to the party's injury or damage;
- (5) Failure to account for or to remit, within a reasonable time, any moneys coming into the licensee's possession belonging to others, commingling funds of others with the licensee's own, failing to keep the funds of others in an escrow or trust account with a federally insured financial institution, or failing to keep records relative to the deposit, which shall contain any information as may be prescribed by this chapter or the rules promulgated by the commission pursuant to chapter 1-26 relative thereto;
- (6) Being convicted, or pleading guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or before any federal court, of a misdemeanor involving moral turpitude or a felony arising under the laws of this state or under the laws of the United States or any other state that would be a misdemeanor involving moral turpitude or a felony under the laws of this state;
- (7) Claiming or taking any secret or undisclosed amount of compensation or the failure of a licensee to reveal to the licensee's principal or

employer the full amount of compensation in connection with any acts for which a license is required under this chapter;

(8) Failing or refusing upon demand to produce any document, book, or record in the licensee's possession or under the licensee's control, concerning a transaction under investigation by the commission;

(9) Offering real property for sale or lease without the knowledge and prior written consent of the owner or the owner's authorized agent or on any terms other than those authorized by the owner or the owner's authorized agent;

(10) Any violation of federal or state fair housing requirements;

(11) Failing or refusing upon demand to furnish copies including reproductions of any document pertaining to any transaction dealing with real estate to a person whose signature is affixed thereto;

(12) Paying compensation or commission in connection with a transaction to any person who is not licensed under this chapter;

(13) Failing to disclose to an owner in writing the licensee's intention or true position if the licensee directly or indirectly through a third party purchases for himself or herself or acquires or intends to acquire any interest in or any option to purchase property which has been listed with the licensee's office for sale or lease;

(14) Failure by a broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a complete, detailed closing statement, showing all of the receipts and disbursements for the seller; also failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what the same was disbursed, and to retain true copies of the statements in the broker's files; also failure to date and sign the closing statement;

(15) Any other conduct which constitutes dishonesty or fraudulent conduct, whether arising within or without the pursuit of the licensee's license privilege;

(16) Accepting employment or compensation for appraising real estate contingent upon reporting a predetermined value or issuing an appraisal report on real estate in which the licensee has an undisclosed interest;

(17) The revocation or suspension of any other license held by a person licensed under this chapter. Any other license includes being licensed as an attorney; real estate salesperson, broker or appraiser; insurance licensee; securities licensee; and other similar regulated occupation, trade or profession;

(18) Using, proposing the use, agreeing to the use or knowingly permitting the use of two or more contracts of sale, earnest money agreements or loan applications, one of which is not made known to the prospective lender or the loan guarantor, to enable the purchaser to obtain a larger loan than the true sales price would allow or to enable the purchaser to qualify for a loan which the purchaser otherwise could not obtain;

(19) Failing to promptly give a copy of an offer to purchase to the purchaser;

(20) Failing to promptly give the seller every written offer to purchase obtained;

(21) Upon obtaining an acceptance of the offer signed by the seller, failing to promptly give a copy of it to both purchaser and seller;

(22) Failing to make certain that all of the terms and conditions of the transaction are included in the offer to purchase;

(23) Giving a title opinion upon the merchantability of the title to property in any transaction in which the licensee participated;

(24) Preparing any legal document, giving any legal advice, or otherwise engaging in the practice of law. Preparation of the following documents is exempt from this provision:

- (a) Agency agreements or extensions;
- (b) Offers to purchase;
- (c) Offers to lease;
- (d) Acceptances; and
- (e) Closing statements;

(25) Permitting the use of a broker's license to enable licensed salespersons to establish and carry on a real estate brokerage business if the broker has only insignificant control of the affairs of the business conducted;

(26) Taking a net listing whereby a licensee agrees to take as compensation the proceeds of a sale over and above the selling price agreed in the listing contract;

(27) Failing to put in writing all guarantees of sale and other guarantees made by a licensee to the person listing the property for sale;

(28) Failing to put in writing any agreement to furnish or sell a warranty;

(29) Attempting to solicit or attempting to secure listings without first advising the owner that the licensee is a licensee and is engaged in real estate brokerage;

(30) Failing to protect and promote the interests of the client whom the licensee has undertaken to represent to the best of the licensee's ability;

(31) Failing to deal fairly with all parties to a transaction;

(32) Committing any act constituting or demonstrating bad faith, incompetency or fraudulent dealings;

(33) Using the licensee's position to gain undue influence over a prospective buyer, seller, landlord, or tenant, using the licensee's position to coerce a buyer, seller, landlord, or tenant, or using duress on a buyer, seller, landlord, or tenant;

(34) Issuing an insufficient funds check;

(35) In a business enterprise that requires licensing by the commission, associating in any manner with another person who has had a license suspended or revoked by action of the commission while the suspension or revocation is in effect. This prohibition includes a corporation, a partnership, an association, a single proprietorship, and an employer-employee relationship. A licensee may act as an agent in a real estate transaction for a person who has had a license suspended or revoked by the commission if the transaction is one that would occur in the ordinary course of the licensee's business;

(36) Buying, selling, leasing, or exchanging real property under the auspices of a partnership or corporation of which the licensee owns an interest if it is indicated that the purchase or sale is being made by a private party not licensed by the real estate commission;

(37) Making a listing contract or any other contract with the licensee's principal which allows the licensee to purchase or lease the listed property and charge a commission thereon without obtaining the written consent of the principal to such provision. This written consent shall be in addition to the signing of any listing contract;

(38) Accepting a note or other nonnegotiable instrument or anything of value not readily negotiable as earnest money on a contract or offer to purchase without the written permission of the licensee's principal;

(39) Selling, buying, exchanging or leasing real property in a manner indicating that the licensee is not licensed under this chapter; or

(40) Improperly influencing or attempting to influence the development, reporting, result, or review of a real estate appraisal by coercion, extortion, or bribery; withholding or threatened withholding of payment of an appraisal fee; conditioning the payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached; requesting the appraiser report a predetermined opinion, conclusion, or valuation or the desired valuation of any person; or any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, and impartiality. This subdivision does not apply to the following acts:

- (a) Requesting an appraiser to consider additional, appropriate property information;
- (b) Providing further detail, substantiation, or explanation of the appraiser's value conclusion;
- (c) Correcting errors in the appraisal report;
- (d) Withholding payment of an appraisal fee based upon a bona fide dispute regarding the appraiser's compliance with the appraisal standards adopted by the Department of Labor and Regulation;
- (e) Retaining a real estate appraiser from panels or lists on a rotating basis; or
- (f) Supplying the appraiser with information the appraiser is required to analyze under the appraisal standards adopted by the Department of Labor and Regulation such as agreements of sale, options, or listings of the property to be valued.

(41) Failing by a team leader to provide a list of all team members to his or her responsible broker;

(42) Failing by a responsible broker to maintain a record of all team leaders and team members working under him or her;

(43) Failing by a team leader to utilize advertising which does not clearly state the name under which the responsible broker does business as filed with the commission; or

(44) Failing by a team leader to utilize team advertising or a team name which would imply that the team is a separate entity from the brokerage firm with which the team brokers are licensed. The terms real estate, REALTORS® or realty may not be used in a team name.

"That § 36-21A-72 be amended to read:"

36-21A-72. Restrictions on licensee advertising. A licensee who advertises shall comply with the following:

(1) Each advertisement shall clearly state the name of the firm with which an individual licensee is associated;

(2) Each team advertisement shall clearly state the name of the firm and the name of the team with which an individual licensee is associated;

(3) Each advertisement in which a licensee attempts to secure real estate listings or offers to purchase, sell or lease property, or perform any other act for which a license is required under this chapter, shall clearly disclose that the advertised acts or services are being offered by a licensee;

(4) No licensee may make any announcement in any media regarding the sale of property which gives any impression that the property sold for a price other than the actual selling price.

Notwithstanding subdivisions (1) to (4), inclusive, of this section, a licensee may advertise in the licensee's individual name an offer to sell or lease property of which the licensee is the owner. The advertisement shall disclose that the owner of the property being sold or leased is a licensee.

2017 Commission Meeting Dates

January 10-11

March 14-15

May 9-10

July 12-13

September 6-7

November 7-8

ARELLO Mid-Year Meeting – April 26-29 (Louisville, KY)

ND/SD Convention – September 13-15 (Aberdeen)

ARELLO Annual Meeting – September 19-24 (Honolulu, Hawaii)