

AGENDA

SOUTH DAKOTA REAL ESTATE COMMISSION
KNEIP BUILDING – CONFERENCE ROOM 3
700 GOVERNORS DR
PIERRE, SOUTH DAKOTA
SEPTEMBER 7, 2016
9:30 A.M. CST

1. Call to Order
2. Approval of Agenda
3. Minutes of the July 14, 2016 Meeting
4. Financial Reports – July & August 2016
5. Approval of Consent Agreements
6. ARELLO Investigator Workshop
7. Office Updates
8. Complaints
 - A. 2016-099
9. Formal Hearing - 10:30 A.M. - Application Appeal
10. Other Business
11. Next Meeting - November 8 & 9, 2016
12. Adjourn

South Dakota Real Estate Commission
Capitol Lake Plaza
July 14, 2016
711 East Wells Ave
Pierre South Dakota

The South Dakota Real Estate Commission convened at 8: 12 a.m. on July 14, 2016. Present for the meeting were Chair Ryan Wordeman and Commissioners David Bonde, Mark Wahlstrom, and Ken Cotton. Also present were Executive Director Melissa Miller, compliance officer Brian Jackson and Department of Labor and Regulation legal counsel Aaron Arnold. Additional public also in attendance were James Gatti and Jim Rezac.

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

Motion by Cotton, seconded by Wahlstrom to approve minutes of the May 12, 2016 meeting. Motion carried.

Summary of the financials was presented by Director Miller. This year's budget is the first year Arnold's salary (proportion) had been deducted from SDREC funds. Discussion of next fiscal year's budget will be held at a future meeting. Motion by Cotton, seconded by Bonde to approve financial reports for May and June. Motion carried.

Motion by Wahlstrom, seconded by Cotton to approve the consent agreement for Joshua Uhre with a \$100 penalty for violation of SDCL: 36-21A-80 for failure to balance the trust account on a monthly basis, i.e lack of a ledger, lack of reconciliation, negative trust balances, or funds that are unaccounted for and SDCL 36-21A-71 (1). Motioned carried.

Motion by Wahlstrom, seconded by Cotton to approve the consent agreement for Mia Semmler with a \$100 penalty for violation of SDCL: 36-21A-52 – failure to report a place of business or failure to report a change of location within 10 days of the change and SDLC 36-21A-71 (1). Motion carried.

Motion by Cotton, seconded by Wahlstrom to approve the broker associate application of applicant #1. Motion carried.

Rezac and Gatti left the meeting at 8:28 a.m.

Motioned by Wahlstrom, seconded by Cotton to deny the property management application of applicant #2. Motion carried.

Complaint 2016-012 – There was a discussion of assurance of voluntary compliance negotiation between commission and respondent's attorney. Motion to approve assurance of voluntary compliance in which Derek Kattenberg and Joshua Kattenberg agree to a fine of \$500 and a total of 18 hours of education (that does not count towards their continuing education) to be completed by March 30, 2017 by Cotton and second by Wahlstrom. Motion carried.

Compliance officer Metzinger joined the meeting at 8:42 a.m.

Director Miller updated the commission of complaint 2015-074. The respondent did not complete the education requirement of the assurance of voluntary compliance by the date agreed to in the agreement. The respondent will be paying the additional \$1,000 fine for not completing the education by the agreed upon time stated in the agreement and the deadline to complete education has been extended to August 15, 2016.

Commissioner Krogman joined the meeting at 8:50 a.m.

Compliance officer Jackson provided a summary of complaint 2016-092.

Motion by Wahlstrom, second by Bonde, to enter into executive session at 9:09 a.m. pursuant to SDCL 1-25-2(3). Motion carried. Compliance officers Jackson and Metzinger left the meeting at 9:09 a.m.

The Commission reconvened to regular session at 9:21 a.m.

Compliance officers Jackson and Metzinger rejoined the meeting at 9:22 a.m.

Motion by Krogman, second by Bonde, for counsel to negotiate consent agreement with respondent and letter to responsible broker for complaint 2016-092. Motion carried.

Compliance officer Metzinger provided a summary of complaint 2016-096.

Motion by Wahlstrom, second by Cotton, to enter into executive session at 9:41 a.m. Motion carried.

Compliance officers Jackson and Metzinger left the meeting at 9:41 a.m.

The Commission reconvened to regular session at 9:46 a.m.

Compliance officers Jackson and Metzinger rejoined the meeting at 9:47 a.m.

Motion to Wahlstrom, second by Krogman, to negotiate consent agreement with respondent for complaint 2016-096. Motion carried.

A short break was taken at 9:48.

The meeting reconvened at 9:55.

SD Department of Labor, Special Assistant Attorney Arnold, presented the transactional brokerage report prepared for the commission and the Department of Labor and Representative Alex Jensen. The Governor's office has also been provided a copy of the report. The report findings are that SD transactional brokerage laws are not uncommon as compared to other states.

Compliance officer Jackson presented a summary of real estate teams and discussion was held about team regulations. The South Dakota Association of Realtors®, at a recent association meeting, had

reviewed recently approved team regulations by the State of Nebraska and is looking into possibly introducing legislation in 2017 pertaining to team regulation. The SDREC will work with SDAR about their proposal.

Discussion was held regarding section 13 of the SDREC purchase agreement and the changes which have occurred due to TRID changes and simultaneous owner title insurance issuance.

Discussion was held about liens and applying for a real estate license.

Arnold held discussion regarding open meeting law changes that went into effect on July 1, 2016.

Compliance officer Metzinger left the meeting at 11:45 a.m.

Beth Marnell, the new SDREC Education Director, joined the meeting at 12:03 pm to give a presentation on the property manager exam. The commission had been considering contracting with AMP, the company which proctors the South Dakota broker associate licensing exam, to create, administer and proctor the South Dakota property management exam. AMP would like to have a minimum of 50 examinations per year however the SDREC has licensed, on average, approximately 25 property manager licenses per year in recent years. The education director recommended the property management exam be administered by the SDREC and the exam be updated.

Discussion was held regarding licensees printing their license upon renewal. Discussion was also held about online renewal and streamlining the application and renewal process. The commission will continue to research this possibility, and additional opportunities, within the capabilities of our current database.

The next regularly scheduled meeting will be held September 7 and 8, 2016.

There being no further business, motion by Krogman, second by Cotton, to adjourn at 12:34 p.m. Motion carried.

Minutes submitted by Brian Jackson

Ryan Wordeman, Vice Chairman

Melissa Miller, Executive Director

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

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	103700069901	1140000	312,688.49	DR	REAL ESTATE COMMISSION
6503	103700069902	1140000	100,000.00	DR	REAL ESTATE COMM RECOVERY FUND
COMPANY/SOURCE TOTAL 6503 699			412,688.49	DR *	
COMP/BUDG UNIT TOTAL 6503 1037			412,688.49	DR **	
BUDGET UNIT TOTAL 1037			412,688.49	DR ***	

BUDGET UNIT 1037

AVAILABLE FUNDS
AS OF: 07/31/2016
FY YEAR REMAINING: 91.8%
PAY DAYS REMAINING: 22

DATE 07/30/2016

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	39,027.95	35,344.44	505,615.61	412,688.49
BUDGETED TOT	579,988.00	0.00	0.00	39,027.95	35,344.44	505,615.61	
ALL COMP TOT	579,988.00	0.00	0.00	39,027.95	35,344.44	505,615.61	

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	21,138.19	21,138.19	248,517.81	92.2
5102 EMPLOYEE BENEFITS	79,121.00	0.00	0.00	6,442.79	6,442.79	72,678.21	91.9
5203 TRAVEL	34,730.00	0.00	0.00	2,092.19	2,092.19	32,637.81	94.0
5204 CONTRACTUAL SVCS	164,781.00	0.00	39,027.95	5,275.56	5,275.56	120,477.49	73.1
5205 SUPPLIES & MATRLS	29,700.00	0.00	0.00	395.71	395.71	29,304.29	98.7
5207 CAPITAL OUTLAY	2,000.00	0.00	0.00	0.00	0.00	2,000.00	100.0
TOTALS	579,988.00	0.00	39,027.95	35,344.44	35,344.44	505,615.61	87.2

BREAKOUT BY COMPANY:

COMPANY	6503-I	PROFESSIONAL & LICENSING BOARDS	TOT
5101000	EMPLOYEE SALARIES	269,656.00	269,656.00
5102000	EMPLOYEE BENEFITS	79,121.00	79,121.00
5203000	TRAVEL	34,730.00	34,730.00
5204000	CONTRACTUAL SVCS	164,781.00	164,781.00
5205000	SUPPLIES & MATRLS	29,700.00	29,700.00
5207000	CAPITAL OUTLAY	2,000.00	2,000.00
PS SUBTOTALS		348,777.00	348,777.00
OE SUBTOTALS		231,211.00	231,211.00
COMPANY 6503-I	TOT	579,988.00	579,988.00

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 07/31/2016

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

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
COMPANY NO 6503						
COMPANY NAME PROFESSIONAL & LICENSING BOARDS						
103700069901	6503	4293700	RESIDENT RENTAL AGENTS	240.00	240.00	
103700069901	6503	4293702	BROKER	3,600.00	3,600.00	
103700069901	6503	4293704	PROPERTY MANAGER	900.00	900.00	
103700069901	6503	4293705	SALES AGENTS	225.00	225.00	
103700069901	6503	4293707	FIRMS	200.00	200.00	
103700069901	6503	4293711	EDUCATIONAL COURSES	525.00	525.00	
103700069901	6503	4293712	ADDITIONAL LICENSES	30.00	30.00	
103700069901	6503	4293713	CHANGE OF ADDRESS	330.00	330.00	
103700069901	6503	4293714	CERTIFICATES OF LICENSURE	225.00	225.00	
ACCT: 4293			BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	6,275.00	6,275.00	*
ACCT: 42			LICENSES, PERMITS & FEES	6,275.00	6,275.00	**
103700069901	6503	4596002	LICENSE LAW BOOKS SOLD	8.00	8.00	
103700069901	6503	4596003	DIRECTORIES/HOME BUYER GU	755.00	755.00	
103700069901	6503	4596004	MAILING LABELS	500.00	500.00	
ACCT: 4596				1,263.00	1,263.00	*
ACCT: 45			CHARGES FOR SALES & SERVICES	1,263.00	1,263.00	**
CNTR: 103700069901				7,538.00	7,538.00	***
COMP: 6503				7,538.00	7,538.00	****
B UNIT: 1037				7,538.00	7,538.00	*****

Revenue Report Ending 7/31/16

(Additional Report)

Description	Budgeted	Current	Rev. to be Rec	YTD	PCT Rec.
Residential Rental Agents	2,000	240	1,769	240	12
Auctioneer	450	0	450	0	
Broker	50,000	3,600	48,160	3,600	7
Home Inspectors	4,000	0	4,000	0	
Property Manager	5,000	900	4,100	900	18
Sales Agents	3,000	225	2,775	225	8
Timeshare Agents	1,000	0	1,000	0	
Firms	7,000	200	6,800	200	3
Condominiums	7,000	0	7,000	0	
Timeshare Projects	6,000	0	6,000	0	
Educational Courses	14,000	525	13,475	525	4
Additional Licenses	2,000	30	1,970	30	2
Change of Address	7,000	330	6,670	330	5
Certificate of Licensure	2,500	225	2,250	225	9
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	0	12,000	0	
Interest Earned	6,500	0	6,500	0	
License Law Books Sold	1,500	8	1,492	8	1
Directories/Guide Sold	4,000	755	3,245	755	19
Mailing Labels Sold	5,500	500	5,000	500	9
Seminar / Education Costs	31,000	0	31,000	0	
Investigation Reimbursement	2,000	0	2,000	0	
	415,950	7,538	408,412	7,538	2%