

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
REAL ESTATE COMMISSION

MEETING MINUTES

March 13 – 14, 2008

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Real Estate Commission was held March 13 – 14, 2008, at the State Office Building, Conference Room A, Juneau, AK.

Thursday, March 13, 2008

Agenda Item 1

Call To Order

Chairman Gene DuVal called the meeting to order at 9:05 a.m.

Roll Call

Members present constituting a quorum, were:

Brad Cole, Broker, 3rd Judicial District
F. Lee Sherman, Public Member
David B. Somers, Broker at Large, Vice Chairman
Gene DuVal, Associate Broker, 4th Judicial District, Chairman
Roger Stone, Broker, 1st Judicial District
Tim Worthen, Public Member

Staff Present:

Beata Smith, Licensing Examiner
Nancy Harris, Project Assistant

Guests Present:

Jun Maiquis, Regulation Specialist
Jenna Conley, Assistant Attorney General
Judy Cloud, Broker
Mark White, Associate Broker
Gina Pelaia, Salesperson
Dave Feeken, Broker
Andrew Hemenway, Administrative Law Judge (ALJ), Office of
Administrative Hearings (OAH)
Peggy Ann McConnochie, Broker
Debra Leisek, Broker

Guests Present via teleconference:

Margo Mandel, Investigator
Sharon Walsh, Executive Administrator
Judge Stanley, ALJ, OAH

Approval of Agenda

The Commission members reviewed and discussed the revised

agenda.

**On a motion duly made by Somers,
seconded by Cole, it was**

**RESOLVED to approve the revised
agenda.**

All in favor; Motion passed.

Agenda Item 2

Approval of Minutes

December 13-14, 2007

Commission members reviewed the December 13-14, 2007 meeting minutes. Lee Sherman stated that on page 12 of the meeting minutes he would like clarification on a motion made by Mr. Somers because the way that the motion was written is a little confusing. The Commission will understand what the intent was but if someone else comes along they might be confused. The Commission members changed the motion to read: Resolved for the MOA to proceed and not to cite violation of AS 08.88.331 with the same penalty as proposed in the original MOA.

**On a motion duly made by Somers,
seconded by Cole, it was**

**RESOLVED to approve the December
13-14, 2007 meeting minutes as
amended.**

All in favor. Motion passed.

February 1, 2008 – Teleconference

Commission members reviewed the February 1, 2008 teleconference meeting minutes as presented.

**On a motion duly made by Stone, seconded
by Cole, it was**

**RESOLVED to approve the February
1, 2008 teleconference meeting
minutes as presented.**

All in favor. Motion passed.

February 19, 2008 – Teleconference

Commission members reviewed the February 19, 2008 teleconference meeting minutes as presented.

On a motion duly made by Sherman,

**seconded by
Cole, it was**

**RESOLVED to approve the February
19, 2008 teleconference meeting
minutes as presented.**

All in favor. Motion passes.

Agenda Item 4

Public Comment

No public comment.

Agenda Item 3

Regulation Specialist Update

Regulation Tracker

Commission members reviewed and discussed the regulation tracker. The Commission directed staff to add to the proposed regulation sheet the intent of the commission.

Jun Maiquis and Jenna Conley discussed edits from the Department of Law with the Commission members. Ms. Conley stated that a project was presented to the Department of Law in February 2008, 12 AAC 64.126, entitled "Supervision of a Licensee in Remote Areas." That section was repealed and it was submitted to the Lt. Governor to sign off on it.

Salespersons must be supervised by an associate broker or a broker, their license must hang in the brokers' principal office or in the branch office and all funds received must go into a trust account that's controlled by the broker. The Commission members know (it's the law) that a licensee should be supervised by the broker. Margo Mandel asked for clarification of the statutes and that it needs to be spelled out what the intent is. Ms. Mandel stated that it has to be clarified in the statutes because there's a lot of confusion around the State because the way the statutes are currently written. Mr. Sherman stated that the Commission should go back to the AG's office for another opinion and ask them to listen to the input first before they do an opinion. Mr. Stone stated that there were two situations where salespeople were operating basically in the format of a branch office but they were being allowed to do that under the remote supervision regulation. If you are going to operate as branch office then you need to follow the proper regulations and procedures.

Ms. Conley stated that there are only two types of offices, branch and principal, no other. These are licensees who are operating out of no office, who are now not remotely supervised. Chair DuVal stated that the regulation for remote supervision expires and asks the Commission if a licensee can live in a location other than where the principal office is and be supervised? Chair DuVal asked Ms. Conley to come back tomorrow with further research and after reconsideration will send out a memo to Ms. Mandel with clear direction.

The Commission recessed for break at 10:30 a.m.
The Commission reconvened from break at 10:45 a.m.

Update on REC Regulation Projects

Ms. Conley provided the Commission with an update on the regulation project 993.08.0029(12 AAC 64.059(d)(5), 12 AAC 64.075(b), 12 AAC 64.440(c), 12 AAC 64.440(d), 12 AAC 64.440(f), 12 AAC 64.440(g), 12 AAC 420(g)) changed terms as applicant was cleared. 12 AAC 64.063 that section has been disapproved because meeting the education requirements 08.88.091(d), those are continuing education requirements and you can not require someone who has yet to have a license to meet the continuing education requirements that they were made when they were licensed. That section has been disapproved. Prelicensing education can not be used as continuing education. Section 12 AAC 64.115 was disapproved because it is redundant; the concern is covered under subsection 12 AAC 64.110, a real estate broker holding an active license shall meet the requirements. Mr. Somers asked the Commission if the discussion can wait until the next day because it ties with remote supervision. Section 12 AAC 64.420 was amended by adding a new subsection (3) and subsection (g). We have moved that to section 500, 420(g) has become 12 AAC 64.500.

Ms. Conley reviewed and discussed with the Commission members 12 AAC 64.500, continuing education extend to sixty (60) days. Ms. Conley stated to be considered for approval by the Commission within 30 days after completing the course and at least 60 days for the end of the licensing period. Mr. Stone stated that continuing education needs to occur in the licensing period immediately prior renewal. Not all of the courses that are offered nationally are offered on an on going basis. So in order for us to consider a course on the Commission level, we need to find out where the course was offered, who taught it, etc. If you wait too long, you might not get that information.

On a motion duly made by Stone, seconded by Cole, it was

RESOLVED to extend to 60 days after completing the course and 60 days before the licensing period ends 12 AAC 64.500.

All in favor. Motion passed.

Ms. Conley discussed and reviewed with the Commission members 12 AAC 64.440(c): there were no changes, it was signed. 12 AAC 64.440(d): there were no changes, it was signed. 12 AAC 64.440(f)(1): changed to: completed application for renewal on the forms provided by the department. 12 AAC

64.440(f)(2): grammatical changes, 12 AAC 64.440(f)(3): previous licensing period to previous approval period. Ms. Conley stated that these changes were made simply because it's possible that not all instructors are licensees so they get a 5 year approval period. Mr. Somers: The approval period floats with different instructors but the licensing period is always the same. Mr. Stone: You have a fundamental conflict between approving the course and the period. Ms. Walsh states that she will go back and listen to the meeting minutes but there was a lot of discussion because we were getting public comment on the previous and prior language. The education committee group recommended that not everybody is a licensee and they forget to renew their instructor license. Mr. Stone: We want the instructors to be as current as possible on current regulations and laws. This is a rapidly changing area. If we ask the instructors for the certification requirements for the previous licensing period, then they have been up to speed on what the changes are that we've already reviewed for education requirements for our licensees. We have approved them for 5 years but what we want is that every time they apply for renewal as an instructor we want them to be as current as possible; we don't want them to be teaching something starting in this next approval period that they haven't reviewed for 5 year prior. Ms. Conley: I'm going to put the prior real estate licensing period.

12 AAC 64.440(g)

On a motion duly made by Stone, seconded by Sherman, it was

RESOLVED to adopt 12 AAC 64.440(g), instructor certification and the removal of the 30 contact hours, option 2 as amended on the edits.

All in favor. Motion passed.

12 AAC 64.990

On a motion duly made by Stone, seconded by Cole, it was

RESOLVED to approve the change as amended.

All in favor. Motion passed.

The Commission recessed for break at 11:32 a.m.
The Commission reconvened from break at 11:40 a.m.

The Commission members move to executive session at 11:46 a.m.

The Commission members reconvened from executive session at 12:12 p.m.

Agenda Item 5

Surety Fund Claims

S-27-011 Henry v. Johnson

On a motion duly made by Stone, seconded by Somers, it was

RESOLVED to adopt the non adoption option, conduct the following specific preceding which will be revised for both decisions.

All in favor. Motion passed.

The Commission members move to executive session at 12:18 p.m.

The Commission members reconvened from executive session at 12:22 p.m.

S-28-002 Devlin v. Radvansky

On a motion duly made by Somers, seconded by Stone, it was

RESOLVED to adopt the decision proposed by the Administrative Law Judge Stanley.

All in favor. Motion passed.

The Commission members move to executive session at 12:30 p.m.

The Commission members reconvened from executive session at 12:45 p.m.

The Commission recessed for lunch at 12:45 p.m.

The Commission reconvened from lunch at 2:10 p.m.

Agenda Item 6

Investigator's Report

Statistics

Ms. Mandel presented her statistical report for the period of November 26, 2007 through February 27, 2008.

On a motion duly made by Somers, seconded by Stone, it was

RESOLVED to accept the investigator's report.

All in favor. Motion passed.

Commission members would like an annual report from Ms. Mandel at the end of the year with investigation statistics.

Surrender: Michael Sorensen

The Commission reviewed the Surrender for Michael Sorensen.

On a motion duly made by Stone, seconded by Cole, it was

RESOLVED to accept the surrender as accepted.

All in favor. Motion passed.

Surrender: Charles Stone

The Commission reviewed the Surrender for Charles Stone. Margo Mandel stated that Charles Stone's attorney recommended withdrawing Surrender for Charles Stone.

On a motion duly made by Stone, seconded by Somers, it was

RESOLVED to withdraw the surrender from the agenda.

All in favor. Motion passed.

**Agenda Item 4
Cont.**

Public Comment

Dave Feeken stated to the Commission that HB 357 passed out of House Finance on March 12, 2008. There has been no negative testimony on the bill. There was a considerable amount of discussion between the Division of Insurance and Division of Corporations, Business and Professional Licensing. Misrepresentation is covered by most E & O policies, but it's the public that's being limited to \$15,000. It's what Representative Gara wants rather than the limit of the policy. There is a question, under which policy misrepresentation would be covered, if you want to limit that to \$15,000, the limit of the surety fund or have the ability to access the limits of the E & O policy. The Legislature thought it was the State's money and later realized it was the licensee's fees. You can keep the current policy as a broker and cover all of your licensees and provide a certificate of insurance to the Real Estate Commission, that's one of the options. The point of changing from surety to recovery is to address the issue of the way the claim is made. The way to make a claim under the recovery

fund is a judgment, arbitration, felony, or a letter of settlement from the insurance company. Individuals that bring in the complaints don't usually have legal counsel. Mr. Stone asked if this is going to affect the licensing fees that are paid. Mr. Feeken stated that this is going to be a separate fee. It won't be collected by the State it will be collected by the insurance company.

Agenda Item 8

Licensing Examiner's Report

Statistical Report

Ms. Smith presented her statistical report to the Commission. Mr. Sherman suggested that a graph would be much clearer for a statistics report. The Commission agreed, a graph will be presented at the next meeting going back as far as 2003.

Renewal Statistics

Ms. Smith presented her renewal statistics report to the Commission. There were 2117 licensees that have renewed; 1318 online and 799 by hard copy. 118 licensees have reinstated.

New Applicants with "Yes" Questions

Tanya K. Morris

On a motion duly made by Stone, seconded by Somers, it was

RESOLVED to approve for Tanya K. Morris to obtain her real estate license.

All in favor. Motion passed.

Calvin E. Schiermeister

On a motion duly made by Stone, seconded by Worthen, it was

RESOLVED to approve for Calvin E. Schiermeister to obtain his real estate license.

All in favor. Motion passed.

Update of 7 Online Renewal Licensees

Ms. Smith gave an update to the Commission on the seven licensees who renewed their license online but did not continue to the last page of the renewal.

On a motion duly made by Stone, seconded by Worthen, it was

RESOLVED to accept the Licensing Examiner's report.

All in favor. Motion passed.

Agenda Item 11 **Assistant Attorney General**
Fitness Question on Renewal Form

Ms. Conley discussed with the Commission members the fitness question on the renewal form. Mr. Stone stated that question #5 on the renewal application should stay. Chair DuVal asked the public if they had any questions about this. Mr. Dave Feeken from the Alaska Association of Realtors stated that there are a number of individual licensees because of the level of income that are operating as professional corporation.

On a motion duly made by Stone, seconded by Sherman, it was

RESOLVED to leave question #5 as is currently written on the renewal application, that means only to the individual licensee be a licensed salesperson, broker, associates broker and not the brokerage or the legal entity.

All in favor. Somers opposed.

Filing a Judgment

Ms. Conley reviewed and discussed with the Commission members the judgment for David Dowd because the claim paid as a result of his misrepresentation as a licensee from the Surety Fund.

On a motion duly made by Stone, seconded by Worthen, it was

RESOLVED to table the motion until next meeting.

All in favor. Motion passed.

Business License Requirements for Licensees

Ms. Conley discussed with the Commission members business license requirements for licensees. Any licensee operating as an

independent contractor and who is providing services to a person or entity is required to have their own separate business license. If an individual is not an independent contractor then workers compensation will be paid.

The Commission recessed for break at 3:50 p.m.
The Commission reconvened from break at 4:00 p.m.

Agenda Item 9

Executive Administrator's Report
Surety Fund Report

On a motion duly made by Stone, seconded by Sherman, it was

RESOLVED to accept Executive Administrator's Surety Fund Report.

All in favor. Motion passed.

Agenda Item 10

Education Report
CE Audit Update & Extension Report

Ms. Harris presented to the Commission the CE Audit Update & Extension Report.

On a motion duly made by Stone, seconded by Worthen, it was

RESOLVED to extend the response period to 60 days for the 3 licensees in question.

All in favor. Motion passed.

Course/Instructor Renewal Update

Ms. Harris presented the Commission with the Course/Instructor Renewal Update. Ms. Harris discussed the standardized education certificate with the Commission members.

On a motion duly made by Stone, seconded by Cole, it was

RESOLVED to adopt the standardized education certificate with March 27, 2008 as the effective date.

All in favor. Motion passed.

Education Committee Report

Ms. Harris presented the Education Committee Report to the Commission. The Commission members discussed Pre-licensing, Post Licensing, and Continuing Education. An applicant for renewal may not accrue continuing education contact hours for taking the same, or substantively identical, course more than once during a licensing period.

On a motion duly made by Stone, seconded by Somers, it was

RESOLVED to accept the Project Assistant's Education Committee Report.

All in favor. Motion passed.

The Commission recessed at 4:50 p.m. until March 14, 2008 at 9:00 a.m.

Friday, March 14, 2008

Call To Order

Chairman Gene DuVal called the meeting to order at 9:00 a.m.

Roll Call

Members present constituting a quorum, were:

Brad Cole, Broker, 3rd Judicial District
F. Lee Sherman, Public Member
Gene DuVal, Associate Broker, 4th Judicial District, Chairman
David B. Somers, Broker at Large, Vice Chairman
Roger Stone, Broker, 1st Judicial District
Tim Worthen, Public Member

Staff Present:

Beata Smith, Licensing Examiner
Nancy Harris, Project Assistant

Guests Present:

Phil Bennett, Chief Finance Manager for the Department of Commerce
Peggy Ann McConnochie, Broker
Mark White, Associate Broker
Jenna Conley, Assistant Attorney General
Jun Maiquis, Regulation Specialist

Agenda Item 7

Adoption of Regulation

Residential Real Property Transfer Disclosure Statement

Page 1:

AS 30.70.040(b) provides that if an item that must be completed in the disclosure statement is unknown or is unavailable to the Seller, and if the Seller or Seller's agent has made a reasonable effort to ascertain the information, the Seller may make an approximation based on the best information available to the Seller or Seller's agent. It must be reasonable, clearly labeled as an approximation, and not used to avoid the disclosure requirements of AS 34.70.010 – AS 34.70.200.

Upon delivery to a buyer, any information/reports generated by a purchase agreement of this property automatically becomes an addendum/amendment to the property disclosure.

**Agenda Item 9
Cont.**

Executive Administrator's Report

Surety Fund Report Report

Revenue & Expenditure Report

Phil Bennett, Chief Finance Manager for the Department of Commerce discussed with the Commission members the Surety Fund Balance Report and the Revenue & Expenditure Report.

Ms. Bennett: We have always isolated the surety fund and statutorily is a separate fund. The primary problem that happened is when we went to web renewal. The information structure was not there for the web site renewal for real estate. Since the revenue is coming in, we can't say that all revenue that is coming in from this web site goes to these certain types of financial accounts. We can not set up an information structure to do that, we have to do that manually and that is what was not done at the last renewal and it was in 2006. We have gone back, Kelly White and myself and reconciled back to 2006 to see what was missed off that renewal that should have gone to the surety fund. The amount is \$39,930.00 for 2006, there was no renewal for 2007, and for 2008 we are reconciling that one right now and we think that it will be between \$40,000 and \$45,000. Only the web renewals are what were missed.

Mr. Stone: The report dated February 28, 2008 with the balance of \$218,537.49 is about \$80,000 short.

Ms. Bennett: Yes, but the beginning fund balance has also changed.

Mr. Stone: I have the last three fund balance reports that were presented at the June, September, and December meetings. None of the reports track. The beginning balance from one to the other does not make sense the ending balance from the report does not carry over to the next report, and the information for contractual services is duplicated. We have made a decision in September at the Girdwood meeting based upon the fund balance that we have been told that was there

and based upon the decision that we are obligated to make to set the fees for the next licensing period. The fund balance was going to be sufficient to carry us through the licensing period. It requires us to have no less than \$250,000 in the fund. We were told in September that this revenue was not there and it amounted to about \$25,000 in addition to \$275,000 that we are looking at. Plus, we are looking at roughly \$60,000 coming in the licensing period. So, we thought we had \$350,000 and \$360,000 going into that fund. We get to the December meeting and we are told that we have \$157,000 in there. Based upon the history, how are we, as Commissioners suppose to be able to rely on this to make any decisions?

Ms. Bennett: We are seeing the results of having non accounting people trying to present financial information, trying to extract financial information from a huge financial system. You can e-mail Mark Davis the new director, Ted Leonard the Deputy Commissioner and tell them that not having acceptable accounting and financial information presented is not acceptable. We know what the cash balance is in this fund as of June 30th. The reason why these balance sheets are not tracking from one period to another is because the person who is putting these together the last few months had no idea what balance a sheet is and had no idea that the cash balance we requested would always be as of the end of the state last fiscal year June 30th. We do have a separate statutory fund set up; it is a cash pool just like the permanent fund. All expenses and revenue if they got posted there would be reflected there.

Tim Worthen: Just for clarification, you said that we are having these people do this? How are we having them do this?

Phil Bennett: I'm the one that kind of devised this hybrid balance sheet because I've been there when it has gone to the Legislative audit but we had to transfer some out. I have worked on this fund numerous times over the years, reconciling it and getting it back.

Gene DuVal: So what are you doing now to fix this?

Phil Bennett: We have reconciled the 06; we are in the process of reconciling the 08. I am having discussions right now with the director and the deputy commissioners because we had other problems with these big renewals. The boards have to have credible financial information and it has to be done by accounting people.

Tim Worthen: What is the entity we want to have doing this?

Phil Bennett: What you need is the Division of Administrative Services. That's where you find the accounting professionals.

Roger Stone: You said that the balance that we've been having it's because it's has been inside the Department of Commerce that's been trying to do that.

Tim Worthen: It's inside of licensing that's doing it with some clerks instead of the admin. But a year and a half ago, after the 06 renewal we have indentified the problem, it was gone to the web booking, the \$30 didn't get transferred over, and you're telling me today we reconciled but we still haven't transferred it yet a year and half later after we have indentified the problem.

Phil Bennett: Because I didn't realize that you had a problem until 2 weeks ago. I'm agreeing with everything you are saying.

Roger Stone: Obviously right now we seem to have an answer. You are personally on top of this. What is to prevent this from going back into the same mess again once you're no longer in the picture? There may be some Legislative changes that affect how the surety fund is managed but it appears to me that other then your personal attention there are no checks and balances in place here to assure the licensees in the State of Alaska who this money belongs to, that this money has been properly accounted for. I would like to see some checks and balances in place to see it happens because I've got this issue up in June of last year. It's taking from June until March of this year to get somebody's attention.

Tim Worthen: I think we need to direct this to her director.

Roger Stone: That's why I'm asking this question. What I see happening is that you have straightened this up and done a wonderful job and got it untangled so we know where we are but a year down the road when you're gone, somebody new in the department is going to look at this and we're going to be back to the same thing again. It isn't people in the department that take the heat, if somebody in the Legislature decides they are out of balance or their fund balance is under the statutory mandate is, it's the guy sitting around this table that's going to take the heat and it's the licensees and the state that's will have to make up the difference.

Brad Cole: I have a question; it has to do with the contractual services for the last couple reports. I assume that there are mistakes made in entries here because they're having the exact same amount as the next. When somebody else has figured that amount and it goes against the fund, it's not the same person that made this balance sheet up to determine how much is going against us?

Phil Bennett: Could be. You are probably thinking that something is wrong with the expenses. Some expenses have been posted that shouldn't been.

Brad Cole: The August sheet from 2007 shows that the contractual services of \$56,428, the November quarter report shows us the contractual of identical amount.

Lee Sherman: I want to thank you for coming in and what you are doing. Do you have a draft time-line on when you will have most of this figured out or straightened out and be able give us the actual balance?

Phil Bennett: I would say about 30 days.

Roger Stone: I appreciate the work that you are doing on this and it's vital that we have the correct information here. I have two concerns and may-be you can help us pass this along. The primary concern is the on going long term integrity in accounting information both for the surety fund on behalf of the licensees and for decision making purposes for us. And number two, the fact that the responsibility for this lies with us we are the ones to take the heat if there's a problem not the person that has made up the report that doesn't make any sense. It seems to me like it's imperative that some sort of check and balance scenario be put in so it will not happen again. It should not take us a year from the first time we asked to get valid accounting information on this fund. It shouldn't take a year to untangle that.

Phil Bennett: I agree. What I have come up with that people that were on the board at that time they wanted to see where they were, what they expect to receive this year, so if you would like a true balance sheet vs. expenses and revenues we can do that also.

Gene DuVal: Thank you.

Roger Stone: Thank you for your efforts.

Phil Bennett: Thank you.

**Agenda Item 7
Cont.**

Adoption of Regulation

Residential Real Property Transfer Disclosure Statement

Page 2:

Check all items that are built-in and will remain with the property. **Also...**

~~Built-in~~ Rods & Blinds

Refrigerators

~~Built-in~~ Microwaves

Storage Shed(s) # of _____

~~Audio~~ Components

~~Satellite~~ Components

Carbon Monoxide(s) # of _____

Auto Garage Door Opener(s)

of Remote Control(s) _____
Other _____

The Commission recessed for break at 10:10 a.m.
The Commission reconvened from break at 10:25 a.m.

Page 3:
~~Current Engineer/Property/Home Inspection Report(s)~~
~~completed within the last 24 months.~~
Energy Rating Certificates or PUR 101
Title/Information
Certificate of Occupancy or PUR 102

To the best of your knowledge, has the property been inspected
by an engineer, home inspector in the last 5 years?

Rain Gutter/Extension

Leased or owned

Well Depth: _____ feet. Flow Rate: _____ gallons per minute;
date tested _____.

Are you aware of any contaminants in your water supply, to
include but not limited to e-coli, nitrates, heavy metals, arsenic
or other contaminants?

Page 4:
Change all the sewerage to sewer
Location, and explain use. _____
Monthly Dues Amount: \$ _____ per _____.
Name: _____

The Commission members move to executive session at 10:55
a.m.
The Commission members reconvened from executive session
at 11:40 a.m.

**Agenda Item 7
Cont.**

Page 5:
19. Are you aware if the property has flooded?
20. Flood Zone Designation _____
25. Are you aware of any permafrost or other soil problems
which have caused settling, slippage, sliding, or heaving that
affect the improvements of the property?
26. Are you aware of any flooding, drainage or grading
problems that affect this property?
27. If Yes, please describe. Was the work performed with
necessary permits in compliance with building codes? If
applicable _____
28. If applicable, Was a final inspection performed? If
applicable? _____

**Agenda Item 11
Cont.**

Assistant Attorney General
12 AAC 64.115

Leave in proposed amendment to 115 which is subsection 3
meets requirements 12 AAC 64.110 will be fixed and will

become one regulation. 12 AAC 64.440(f) amended language as presented by Ms. Conley.

The cost for Department of Law to pursue a judgment is currently about \$116.50 per hour for 10 hours that would run about \$1100 - \$1200 for small claims.

Remote Supervision

Ms. Conley discussed Remote Supervision. Under 08.088.291 the real estate licensee needs to operate through the principal office or from a branch office. However, through and from, in the statute has never been interpreted. That makes a policy decision for the Commission. A licensee can be away from the office, they don't have to be physically present.

Regulation Project 993.08.0029

**On a motion duly made by Sherman,
seconded by Cole, it was**

**RESOLVED to adopt regulation
project 993.08.0029 as amended.**

All in favor. Motion passed.

12 AAC 64.059(d)(5), 12 AAC 64.075(b), 12 AAC 64.440(c), 12 AAC 64.440(d), 12 AAC 64.440(f), 12 AAC 64.990(e)(1)(2), 12 AAC 64.500, 12 AAC 64.440(g) repealed, 12 AAC 64.115 is retained

**On a motion duly made by Sherman,
seconded by Cole, it was**

**RESOLVED to adopt as regulation
projects 12 AAC 64.059(d)(5), 12 AAC 64.075(b), 12 AAC 64.440(c), 12 AAC 64.440(d), 12 AAC 64.440(f), 12 AAC 64.990(e)(1)(2), 12 AAC 64.500, 12 AAC 64.440(g) repealed, 12 AAC 64.115 is retained as amended.**

All in favor. Motion passed.

Commission Member Roger Stone was excused at 12:15p.m.
Commission Member Lee Sherman was excused at 12:30p.m.

The Commission recessed for lunch at 12:30 p.m.
The Commission reconvened from lunch at 1:50 p.m.

**Agenda Item 7
Cont.**

**Adoption of Regulation
Residential Real Property Transfer Disclosure Statement**

Page 6:

31. Are you aware of any human murder or suicide, having occurred on the property?

~~33. Are you aware of any stigmatizing events, paranormal activity, or other latent events?~~

34. a. Are you aware of any noise sources that may affect the property, including but not limited to, airplanes, trains, dogs, traffic, race tracks, neighbors, etc?

Page 7:

No changes

Page 8:

No changes

Page 9:

No changes

**On a motion duly made by Somers,
seconded by Cole, it was**

**RESOLVED to accept the Residential
Real Property Transfer Disclosure
Statement**

All in favor. Motion passed.

**Agenda Item 3
Cont.**

Remote Supervision Regulation

The Commission members discussed the clarification of supervision for licensees at remote areas. Chair DuVal stated that remote supervision is repealed on March 27, 2008. A salesperson may continue practicing real estate in a location away from the broker's principle office as long as the salesperson meets supervision requirements stated in 12 AAC 64.125 and keeps the trust money in the brokers trust account and doesn't operate a branch office.

**On a motion duly made by Somers,
seconded by Cole, it was**

**RESOLVED to adopt previous
language as amended.**

All in favor. Motion passed.

Surety Fund Balance Report and Revenue and Expenditure Report

On a motion duly made by Cole, seconded by Somers, it was

RESOLVED to adopt Executive Administrator's Surety Fund Balance Report and Revenue and Expenditure Report

All in favor. Motion passed.

Agenda Item 12 **New Business**
Regulation Projects

12 AAC 64.112

No changes of regulation 12 AAC 64.112

12 AAC 64.940

(a) In a real estate sales transaction, a broker shall disclose in writing to the broker's principal the dollar amount or equivalent percentage amount of any rebate, compensation, or fee paid to another broker in connection with that transaction.

~~(d)(2) the purchase agreement is signed~~

~~(4) the terms of the real estate transaction change~~

On a motion duly made by Cole, seconded by Sherman, it was

RESOLVED to be real estate sales transaction, a broker shall disclose in writing to the broker's principal the dollar amount or equivalent percentage amount of any rebate, compensation, or fee paid to another broker in connection with that transaction.

(d) A disclosure required of a broker to the broker's principal under (a) of this section shall be made when
1. the listing contract is signed
2. the settlement is signed,

All in favor. Motion passed.

from Eklutna, Inc. At this point there is no broker for Eklutna, Inc. Chair DuVal asked the Commission if they had any suggestions on how they should proceed with Eklutna, Inc. Mr. Sherman made a comment to make a motion to investigate whether or not they are violating the licensing law by selling real estate without a Broker. Mr. Duval mentioned that he wants to write out a formal complaint by filing a complaint and sending it to the investigative unit. In 3 months at the next meeting the Commission will review and discuss the Eklutna, Inc. issue.

On a motion duly made by Sherman, seconded by Stone, it was

RESOLVED to file a formal complaint for violating statute 08.88.161.

All in favor. Motion passes.

Agenda Item 6(a)

The Commission members reviewed and discussed the proposed regulation change for "incidental" and "vocational". Commission members did not vote on this proposed regulation.

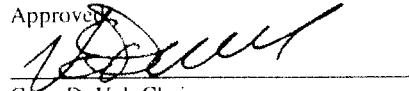
A teleconference will be scheduled for January 2008 to review and discuss public comments for the regulation 12 AAC 64.059, 12 AAC 64.063, 12 AAC 64.064, 12 AAC 64.064(b), 12 AAC 64.064(c), 12 AAC 64.126, 12 AAC 64.430, 12 AAC 64.510.

Next meeting is March 13 & 14, 2008 in Juneau.

Meeting adjourned at 3:45pm.

Prepared and submitted by Division Staff.

Approved:



Gene DuVal, Chairperson
Alaska Real Estate Commission

Date: March 9, 2009