

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT
3 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
4

5 REAL ESTATE COMMISSION
6 MEETING MINUTES
7

8 January 16, 2019
9

10 "They have not been reviewed or approved by the Commission." By authority of AS
11 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a
12 scheduled meeting of the Real Estate Commission was held January 16, 2019, at
13 the State of Alaska Atwood Building Conference Room 102, 550 W. 7th Avenue,
14 Anchorage, Alaska.
15

16 **January 16, 2019**

17 **Agenda Item 1 - Call to Order**

18 Chairperson Traci Barickman called the meeting to order at 9:00 a.m. at which time
19 a quorum was established.
20

21 **Roll Call – 1(a)**

22 **Members present:**

23 Guy Mickel, Broker, 1st Judicial District,
24 Peggy Ann McConnochie, Broker, Broker at Large, via teleconference
25 Marianne Burke, Public Member
26 Eric Bushnell, Broker at Large
27 David Pruhs, Broker, 4th Judicial District
28 Traci J. Barickman, Broker, 3rd Judicial District, REC Chairperson
29 Cindy Cartledge, Public Member
30

31 **Staff Present:**

32 Sharon Walsh, Executive Administrator
33 Nancy Harris, Project Assistant
34 Melissa Dumas, Administrative Officer, JNU Division of CBPL, via teleconference
35 Greg Francois, Chief Investigator
36 Shyla Consalo, Investigator for REC
37

38 **Guests Present:**

39 Jerry Royse, Broker, Royse & Associates, RE Educator, Anchorage
40 Anita Bates, Associate Broker, Dwell Realty, RE Educator, Anchorage
41 Lonnie Logan, Associate Broker, Herrington and Company, Anchorage
42 Deborah Brollini, Public attendee, Anchorage
43 Linda Sharp, Broker, Consulting Services, Anchorage
44 Cassandra Taggart, Broker, Real Property Management Last Frontier, RE
45 Educator, Anchorage
46 Terry Bryan, First American Title, RE Educator,
47 Howard Hancock, First American Title, RE Educator
48 Becky Brewer, Associate Broker, RE/MAX Dynamic Properties, RE Educator,
49 Anchorage
50
51

52 Via Teleconference:

53 Errol Champion, Legislation Liaison for AK Association of Realtors and Broker of
54 Coldwell Banker Race Realty, Juneau
55 Barbara Barnes, Chief of Staff for Rep. Tammie Wilson

56

57 Commission member McConnochie is in attendance via teleconference due to bad
58 weather conditions in Juneau.

59

60 Chair Traci Barickman asked if any of the Real Estate Commission (REC)
61 members had any conflicts of interest to disclose.

62

63 Mr. Mickel disclosed that his wife is the Chief Executive Officer (CEO) of a credit
64 union in Ketchikan.

65

66 There were no other disclosures.

67

68 Ms. Barickman put a 5-minute limit on public comment due to a full agenda.

69

70

71 Approval of Agenda-1(b)

72 Commission members reviewed the meeting agenda.

73

74 **On a motion duly made by Mr. Pruhs, seconded by Ms. Cartledge, it**
75 **was,**

76

77 **RESOLVED to approve the meeting agenda for January 16, 2019**
78 **as amended.**

79

80 Ms. Barickman asked to add item 4(e), Old Business, Rob Schmidt, AAG to
81 address contract language on Consumer Disclosure and Waiver.

82

83 Move agenda item 5(a) COA to 5(c).

84 In place of 5(a), Commission will discuss Handling of Security Deposits Letter.

85 Move Consent Agreements down to item 9(c), under Investigations.

86 Under agenda item 6, Old Business, add two items: (e) Application Review, and (f)
87 Credit Union statute change AS 08.88.351.

88

89 Ms. Barickman said that Rep. Wilson will call in at 9:30 a.m. for public comment.
90 Rob Schmidt will address the Commission at 10:30 a.m. due to his busy schedule.

91

92

93 **All in favor; Motion passed.**

94

95

96 **Agenda Item 2 - Approval of Meeting Minutes**

97 **August 14, 2018, September 18, 2018 and October 29, 2018 meeting minutes.**

98

99 **On a motion duly made by Mr. Bushnell, seconded by Mr. Pruhs, it**
100 **was,**

101
102 **RESOLVED to approve the August 14, 2018, September 18, 2018**
103 **and October 29, 2019 meeting minutes as amended.**

104
105 Ms. Burke asked that a correction be made to the August 14, 2018 meeting
106 minutes on line 199. The word “transgression” should be “transaction” per claim.

107
108 **All in favor; Motion passed.**

109
110
111 **Agenda Item 3 – Public Comment**

112 Errol Champion, Broker- Coldwell Banker Race Realty, and Alaska Association of
113 Realtors (AAR) Liaison

114 Errol Champion, liaison for the AAR, presented his report to the Commission
115 regarding upcoming legislation. Mr. Champion reported that they are working on
116 the statute change to AS 08.88.351(3), by adding the word “credit union” as
117 requested by the REC. He said that the legislation is already drafted but the House
118 is not organized and there is no Chair for House Labor & Commerce to move on
119 this. He said that once the House is organized, they can begin to move forward. He
120 said AAR believed it would be better if this proposed draft legislation was
121 sponsored through a committee bill rather than an individual representative.

122
123 Terry Bryan and Howard Handcock, First American Title

124 Terry Bryan and Howard Handcock from First American Title addressed the
125 Commission regarding proposed draft legislation they are moving forward related
126 to remote online notarization and are sharing this information with the Commission
127 and multiple groups within the real estate industry. He said this is an effort to
128 streamline the flow of commerce and enhance the improvement of real estate
129 closings and transactions as well as other actions that require notarization. Mr.
130 Bryan said the effective date would hopefully be 1/1/2020.

131
132 Mr. Hancock said this would just be another option available for notarization. He
133 also said there are YouTube videos available for those who would like to know
134 more about the process.

135
136 Barbara Barnes, Chief of Staff to Representative Tammie Wilson

137 Barbara Barnes, Chief of Staff to Representative Tammie Wilson, addressed the
138 Commission regarding proposed draft legislation they are moving forward related
139 to exemptions from mortgage loan originator requirements and an effective date.
140 Ms. Barnes said that Rep. Wilson sends her appreciation for the Commission’s
141 time and is looking forward to any suggestions, concerns or support on something
142 of this nature.

143
144 Becky Brewer, Associate Broker, RE Educator, RE/MAX Dynamic Properties

145 Becky Brewer, Associate Broker and Real Estate Educator with REMAX Dynamic
146 Properties, addressed the Commission regarding teams not identifying themselves

147 properly in their communication/advertising. She said this is an issue she sees
148 ramped in the industry. Licensees do not depict what brokerage they are within
149 their communication (text, email, business card etc). As far as signs, many teams
150 appear to be their own brokerage but they are not. She said they are
151 misrepresenting themselves to the public and other licensees. She believed this
152 needs to be addressed at the Commission level so that licensees have a better
153 understanding and for compliance. She said there will only be compliance if it
154 comes from the Commission. Ms. Brewer also said she believed that the team
155 leader should be an Associate Broker because they have more experience in the
156 industry than a fairly new salesperson who may be still learning themselves.

157

158 Anita Bates, Associate Broker, RE Educator, Dwell Realty

159 Anita Bates, an Associate Broker with Dwell Realty and a real estate educator
160 spoke to the Commission regarding their decision at the August 14, 2018
161 teleconference to not allow a licensee to count the hours for a Designated
162 Continuing Education (DCE) course as an Elective Continuing Education (ECE)
163 credit if the licensee had already taken a DCE class on the same topic to fulfill their
164 CE requirements for license renewal. She said she believed that a course can be
165 similar but not substantively identical as regulation, 12 AAC 64.500(h) reads. She
166 said that if the REC established topics that they consider important enough to be
167 designated they should not discourage a licensee who wishes to take classes with
168 similar content for a better depth of knowledge about the subject. Ms. Bates asked
169 that the Commission reconsider their decision and allow DCE classes to be
170 credited and counted as ECE.

171

172 Linda Sharp, Broker, Consulting Services

173 Linda Sharp, Broker, Consulting Services, addressed the Commission, regarding
174 her dissatisfaction with the CE audit process and how the REC staff communicated
175 with her during that process. She stated that she believed her 22 hours should
176 have been accepted as the law allowed and as Ms. Bates had explained earlier
177 during her public comment. She stated licensees should be allowed ECE credit for
178 double DCE courses that are taken as long as they fit the topic requirements and
179 are approved, etc.

180

181 Deborah Brollini, member of the public

182 Deborah Brollini, a member of the public, addressed the Commission regarding
183 some of the serious issues she has had with real estate licensees. She said one of
184 the biggest issues that she still has concern about is fair housing and the laws that
185 changed in October 2016. These laws changed "quid pro quo" and harassment.
186 Ms. Brollini said she has endured a lot of harassment with her case. She said she
187 believed there is more education needed in this area for licensees.

188

189 Jerry Royse, Broker, RE Educator, Royse and Associates

190 Jerry Royse, Broker for Royse and Associates and real estate educator, addressed
191 the Commission regarding his dissatisfaction with the CE audit process and what
192 Ms. Sharp went through during that process. He said he has never had a problem
193 with a DCE class being approved for ECE credit. He also believed that the law
194 allowed a licensee to receive ECE credit for extra DCE class they completed and

195 this was an incorrect interpretation of the law and inconsistent with what has been
196 done for the past 25 years.

197

198 There was no further public testimony and public comment was closed.

199

200

201 Commission recessed for Break at 10:23 a.m.

202 Commission reconvened from Break at 10:30 a.m.

203

204

205 **Agenda Item 4 – Old Business**

206 **Changes to AREC Consumer Disclosure – to include teams-4(a)**

207 Mr. Schmidt was asked to address the Commission regarding their concerns with
208 the verbiage “this is not a contract” on the Consumer Disclosure and Waiver of
209 Right to be Represented form.

210

211 Rob Schmidt, an AAG with the Department of Law, addressed the Commission
212 regarding the Waiver of Right to be Represented form and whether it is legally a
213 contract. Mr. Schmidt said that it is a contract. A contract by definition of law is an
214 agreement where both sides have given up something of value and have agreed to
215 essential terms. He said in the Waiver of Right of Representative the buyer and
216 seller waive their right to unilateral representation and agree to neutral
217 representation so they are surrendering something in exchange for the buyer or
218 seller to view a listing. Therefore, it is a contract as to that subject matter. It is not a
219 final contract at all to buy or sell real property. It is limited to the nature of the
220 representation.

221

222 The Commission members agreed to table Agenda 4a until the next meeting and
223 have Ms. McConnochie and Mr. Pruhs edit the current draft of the Consumer
224 Disclosure and Waiver of Right to be Represented forms. The Commission
225 discussed and agreed to remove the verbiage “this is not a contract” and add an
226 acknowledgement that the form(s) are an agreement to a type of relationship with
227 the licensee and does not obligate the consumer but it does obligate the licensee.
228 The members also discussed and agreed to remove the information regarding
229 designated licensee and conflict of interest.

230

231

232 **Agenda Item 4– Old Business, con’t**

233 **Regulation Changes 12 AAC 02.530 - 4(b)**

234 Ms. Burke spoke to the Commission regarding E & O Insurance. Ms. Burke gave
235 the Commission a brief history of the REC’s implementation of the new E & O
236 requirement that all licensees must have had by January 1, 2018 She went over
237 what the state policy requires and spoke to what the proposed regulation will
238 remove. She said it would remove, tail coverage, the ability for a licensee to buy
239 additional coverage, no requirement for the equivalent coverage to be “individual
240 and specific to licensee, no requirement for prior acts of coverage and that the
241 insurer maintain a certificate of authority issued under AS 21.09, an insurance
242 license.

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Ms. Barickman thanked Ms. Burke for all her hard work and expertise with all she has done to help with E & O Insurance for the REC.

Changes to 12 AAC 64.420(c)- 4(c)

On a motion duly made by Mr. Bushnell seconded by Mr. Pruhs, it was,

RESOLVED to push forward the proposed regulation change for 12 AAC 64.420(c) and (g) in its entirety, as defined below with a slight change should read “the” odd number years.

All in favor; Motion passed.

12 AAC 64.990

On a motion duly made by Mr. Bushnell seconded by Mr. Pruhs, it was,

RESOLVED to push forward the proposed regulation change for 12 AAC 64.990- Definitions. Proposed language to include (f), a full licensing cycle means the period from February 1st of an even-numbered year until January 31st of the next even-numbered year.

All in favor; Motion passed.

Commission recessed for Lunch at 12:00 p.m.

Commission reconvened at 12:46 p.m.

Revisit 12 AAC 64.440 add: (g) – 4(d)

The Commission members discussed amending regulation 12 AAC 64.460 regarding instructor approval and adding a train the trainer workshop as a requirement.

On a motion duly made by Ms. McConnochie seconded by Mr. Bushnell, it was,

RESOLVED to accept the proposed changes, submitted by Ms. McConnochie, to regulation 12 AAC 64.440, amending (f) to: “An instructor approval expires on January 31 of every odd-numbered year. An applicant for renewal of an instructor approval must submit to the department:” adding after (3)(c), “and; (4) an applicant for approval as an instructor must show successful completion of an instructor training workshop

291 ~~provided by an approved national entity as listed below in (d) of~~
292 ~~this section or the commission prior to their initial approval as~~
293 ~~an instructor or for renewal as an instructor."~~
294

295 **Commission members voted on the amendment.**
296 **All in favor. Amendment passed.**

297
298 **Commission members voted on the original motion as amended.**
299 **All in favor. Motion passed.**
300

301
302 **Agenda Item 5 – New Business**

303 **Security Deposit Issues – K Taggart – 5(a)**

304 Ms. Cassandra Taggart is a broker for Real Property Management-Last Frontier
305 and she addressed the Commission regarding the handling of security deposits.
306 She said the issue of recording security deposits is escalating, and either it needs
307 to be clarified or the regulations need to be updated. She presented two scenarios
308 involving mishandling of security deposits to the Commission for their
309 consideration.
310

311 Commission asked that Ms. Taggart submit these issues as a complaint with
312 investigations.
313

314

315 **Agenda Item 7 – Division Update**

316 Ms. Dumas introduced herself to the Commission and presented the Schedule of
317 Revenues and Expenditures Report for 4th Qtr FY18. She reported that for 4th Qtr
318 FY18 there was licensing revenue of 766,875, expenditures for personal services
319 was 166,498, travel 15,632, contractual 14,329 and supplies at 649, for a total
320 direct expenditure of 197,108. Indirect expenditures were at 180,508 with total
321 expenditures at 377,616. Ms. Dumas said there is a total surplus of 389,259. A
322 beginning cumulative surplus was 523,449 with an ending cumulative surplus of
323 912,708.
324

325 Ms. Dumus said that with this current administration their top priority is to keep
326 costs down and they have denied travel for other boards. She said she wanted to
327 make sure the Commission knew that even though the REC has done well to keep
328 their expenses down this may still be a possibility in the future.
329

330 Ms. Barickman said this is a very difficult industry and these face to face meetings
331 are extremely important, it makes for a far better meeting.
332

333 Ms. Dumus spoke about indirect expenses with the Commission. She said there
334 are three different types of indirects, these services are charge to a single
335 administrative code and those charges are split out to each of the licensing
336 programs. The three types are: statewide costs-this is core services, department
337 costs-admin services (IT, HR and some administrative work to support division),

338 and division costs – (state equipment, some legal support, and administrative
339 costs).

340

341 She said there is a great resource in the Board Training material on the website
342 regarding Board finances that explains how indirect costs work.

343

344 The Commission had no questions and Ms. Barickman thanked Ms. Dumas for her
345 report.

346

347 Ms. Walsh said the Commission should be prepared to have meetings using Skype
348 or Zoom for future meetings, as a cost savings measure.

349

350 Set Future REC Meeting dates - 5(d)

351 The Commission set the meeting dates for 2019.

352

353 March 27

354 June 5

355 September 25

356 December 11

357

358 All meetings will take place in Anchorage.

359

360

361 Commission recessed for Break at 2:10 a.m.

362 Commission reconvened from Break at 2:15 a.m.

363

364

365 Virtual Offices – new regulations for 12 AAC 64.110 – 5 (c)

366 Ms. Harris spoke to the Commission regarding licensees operating offices, home
367 or remote, and advertising such offices with or without signs. Also, some offices
368 have a physical address that is located at a mail office business as a post office
369 box. Where can licensees work outside of their principal office?

370

371 Commission members discussed the issue of home and remote offices. The issue
372 is a licensee is working out of a location other than their principal office that
373 appears to be an office.

374

375 The Commission said this should be given to investigations.

376

377 Ms. Harris said that this is becoming a problem and she will give this issue to
378 investigations but there may need to be some regulation changes in the future for
379 clarification.

380

381

382 Agenda Item 9– Investigative Report

383 Statistics Report and Probation Report – 9(a) and (b)

384 REC Investigator, Shyla Consalo, presented the investigation statistics for the
385 reporting period of 08/31/18 through 11/19/18. There are 4 opened matters, 13
386 matters were closed and there are 28 matters under active investigation.

387
388 Ms. Cartledge said she noticed there are cases still open from 2015, 2016 and
389 2017. She stated that one of the directives from legislative audit was to close
390 cases as quickly as possible. She asked if there is a reason the 2015 case is still
391 on the books?

392
393 Chief Investigator, Greg Francois said open cases cannot be discussed with the
394 Commission because they may come in front of the members at a future meeting
395 for a decision. Mr. Francois assured the Commission that these old cases are
396 currently the priority and they are being worked and making progress.

397
398 Ms. Consalo presented the Probation report that was prepared for the December
399 5, 2018 meeting to the Commission. She stated all individuals are within their
400 agreements except for two. Two licensees are in lapsed license status and
401 therefore their probation does not begin until they reinstate their license.

402
403
404 **On a motion duly made by Mr. Bushnell seconded by Mr. Mickel, it**
405 **was,**

406
407 **RESOLVED to go into executive session per AS 44.62.310(c)(2),**
408 **subjects that tend to prejudice the reputation and character of**
409 **any person, provided that the person may request a public**
410 **discussion.**

411
412 **All in favor; Motion passed.**

413
414
415 Into Executive session at 2:31 p.m.

416
417
418 **On a motion duly made by Mr. Bushnell seconded by Mr. Mickel, it**
419 **was,**

420
421 **RESOLVED to come out of executive session.**

422
423 **All in favor; Motion passed.**

424
425 Out of executive session at 3:43 p.m.

426
427
428 Commission recessed for Break at 3:45 p.m.
429 Commission reconvened from Break at 3:50 p.m.

430
431

432 **On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it**
433 **was,**

434
435 **RESOLVED to approve the consent agreement, decision, and**
436 **order in case #2018-0001028.**

437
438 **All in favor; Motion passed.**

439
440 The Commission approved the Consent Agreement for case # 2018-000128 for
441 licensee Robert Stevens, Jr.

442
443
444 **On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it**
445 **was,**

446
447 **RESOLVED to approve consent agreement, decision, and order**
448 **in the case #2018-001027.**

449
450 **All in favor; Motion passed.**

451
452 The Commission approved the Consent Agreement for case # 2018-000127 for
453 licensee David George.

454
455
456 **On a motion duly made by Ms. Cartledge, seconded by Mr. Pruhs, it**
457 **was,**

458
459 **RESOLVED to approve application case #2019-000034.**

460
461
462 **On a motion duly made by Mr. Pruhs, seconded by Mr. Bushnell, it**
463 **was,**

464
465 **RESOLVED to reconsider the previous motion.**

466
467 **All in favor; Motion passed.**

468
469
470 **The vote on the original motion regarding case #2019-000034.**

471
472 **Mr. Bushnell-no, Ms. McConnochie voted no; Mr. Pruhs, Mr. Mickel and Ms.**
473 **Burke voted yes.**

474
475
476 Motion to accept the license application case #2019-000034 failed.

477
478

479 **On a motion duly made by Ms. Cartledge, seconded by Mr. Pruhs, it**
480 **was,**

481
482 **RESOLVED to accept the licensing application for case #2018-**
483 **000828.**

484
485 **Mr. Bushnell recused himself from the vote. Ms. McConnochie- voted no; Ms.**
486 **Cartledge, Ms. Burke, Mr. Mickel and Mr. Pruhs voted yes.**

487
488 **4 members in favor, 1 member opposed, 1 member recused.**
489 **Motion passed.**

490
491
492 The Commission accepted the licensing application for case # 2018-00828 for
493 applicant Mary Holbrook.

494
495
496 REC investigator, Shyla Consalo, handed out a blank review sheet that would be
497 completed by a Commission member when they review a case. She said this form
498 had been updated and is a bit more detailed. Ms. Consalo did a quick overview of
499 the form with the Commission.

500
501 Commission public members Ms. Cartledge and Ms. Burke were in agreement that
502 the Commission, even though it was not allowed in the past, should consider using
503 public members who have a background/expertise in other areas to review cases.
504 This experience, in insurance, accounting or a legal background, etc., would be
505 beneficial to those cases. They asked the investigative staff to keep an open mind
506 because there is a lot of talent that would be helpful to this Commission.

507
508 Ms. Consalo said that for those Commission members who will be reviewing
509 cases, the process will now be done through OnBoard. She will create a file in
510 OnBoard and the reviewing member will only have permission for that specific
511 folder.

512
513

514 **Agenda Item 6– Executive Administrator Report**

515 **Licensing Statistics Report – 6(a)**

516 The Commission members reviewed the December 5, 2018 licensing statistics
517 report. Ms. Walsh asked if the Commission members had any questions regarding
518 the report.

519
520 The Commission members had no questions.

521
522 Ms. Cartledge asked Ms. Walsh how was the ARELLO conference and if Ms.
523 Harris was able to attend.

524
525 Ms. Walsh said that she did attend the ARELLO conference in September and that
526 Ms. Harris' travel was not approved so she was not able to attend.

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Ms. Walsh gave the Commission a quick update on her attendance at the ARELLO conference. She said the big issues were: teams, super boards (one board for all professions), license portability (ability of licensee to take license state to state), and TX now uses ZOOM for all their meetings and licensees can listen to meeting online.

Recovery Fund Financial Report – 6 (b)

Ms. Walsh and the Commission members reviewed the Recovery Fund report for the period ending 6/30/2018. There were no questions.

Update on Fairbanks Broker – 6(c)

Ms. Walsh gave an update on the broker from Fairbanks who was out of office due to a medical issue. Ms. Walsh stated that the broker had transferred all her clients, and her property management issues were complete. She also said she is on the mend and will hopefully be back in Fairbanks soon.

Agenda Item 8– Education Report

Education Statistics – 8(a)

Ms. Harris presented the December 5, 2018 Education Report to the Commission. She said there were 83 currently approved courses, 27 permanent instructors with 3 of those are new instructors.

Ms. Barickman thanked all the Commission members for their hard work on the Commission.

Meeting adjourned at 4:23 p.m. The next meeting will be held March 27, 2019 in Anchorage.

Prepared and submitted by:
Real Estate Commission Staff

Approved:

REC Chairperson
Alaska Real Estate Commission

Date: _____