

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 **March 9, 2016**
9

10 *“These draft minutes were prepared by the staff of the Division of*
11 *Corporations, Business and Professional Licensing. They have not been*
12 *reviewed or approved by the Commission.”* By authority of AS 08.01.070(2), and in
13 compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Real
14 Estate Commission was held March 9, 2016, at the State of Alaska Atwood Building
15 Conference Room 1270, 550 W. 7th Avenue, Anchorage, Alaska.
16

17 **Wednesday, March 9, 2016**

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

19 Chairperson Nancy Davis called the meeting to order at 9:00 a.m. at which time a quorum
20 was established.
21

22 **Roll Call – 1(a)**

23 **Members present:**

24 Peggy Ann McConnochie, Broker, Broker at Large
25 Nancy Davis, Broker, 1st Judicial District, Chair
26 Marianne Burke, Public Member
27 Eric Bushnell, Associate Broker at Large
28 Stacy Harvill, Associate Broker, 4th Judicial District
29 Cindy Cartledge, Public Member
30 Traci J. Barickman, Broker, 3rd Judicial District
31

32 **Staff Present:**

33 Sharon Walsh, Executive Administrator
34 Nancy Harris, Project Assistant
35 Jay Paff, Investigator II
36 Nina Ackers, Investigator II
37

38 **Guests Present:**

39 Shana Ackles, Broker, Keller Williams Realty, AK Group, Anchorage
40 Jerry Royse, Broker, Royse & Associates, Anchorage
41 Errol Champion, Representative for AK Association of Realtors and Broker of Coldwell
42 Banker Race Realty, Juneau
43 Jennifer Stalcup, Salesperson, Keller Williams Realty of Eagle River
44 Todd Held, Associate Broker, Keller Williams Realty, AK Group, Anchorage
45 Joan McKinnon, Salesperson, Herrington & Company, LLC., Anchorage
46 Hennie Vincins, Salesperson, Herrington & Company, LLC., Anchorage
47

48 **Guests Present via Telephone:**

49 Janey Hovenden, Director, Operations Manager, Corporations, Business & Professional
50 Licensing (CBPL)
51 Martha Hewlett, Administrative Officer II, CBPL
52 Harriett Milks, Assistant Attorney General, Department of Law,
53

54 **Approval of Agenda- 1(b)**

55 Commission members reviewed and discussed the meeting agenda and had a few
56 additions.

57
58 Mr. Bushnell asked that the issue regarding out of state brokers working within the State of
59 Alaska, with or without a co-broker, be addressed with the Investigator, Jay Paff, present.
60 The Chair added this discussion to the agenda under New Business, Tab 9(d).

61
62 Ms. McConnochie asked to discuss the change in reinstatement fees. The Chair added
63 this discussion to the agenda under New Business, Tab 9(e).

64
65 Ms. Walsh and Mr. Paff asked that the Executive Administrator and Education Reports be
66 switched with the Investigative Report so that the individuals attending the meeting would
67 not have wait.

68
69 Ms. Davis asked to add to the agenda the consideration of adoption of regulation 12 AAC
70 64.420. She read it into the record.

71
72 12 AAC 64.420(c) is amended to read:

73 (c) A course certified by the commission may be offered for credit

74 **(1) a course certified by the commission to satisfy the requirements under 12**
75 **AAC 64.500(b)(1) may be offered for credit from the date the commission certifies that**
76 **course until January 31 of the next even-numbered year that completes two full**
77 **licensing cycles;**

78 **(2) a course certified by the commission to satisfy the requirements under 12**
79 **AAC 64.500(b)(2) may be offered for credit from the date the commission certifies**
80 **that course until January 31 of the next even-numbered year**, except that a course
81 that is certified by the commission from October 15 of an odd-numbered year through
82 January 31 of an even-numbered year may be offered for credit from the date that the
83 commission certifies the course until January 31 of the following even-numbered year. The
84 commission will provide course sponsors with applications for course recertification by
85 October 15 of odd-numbered years.

86
87 Ms Davis also asked to add to the agenda the consideration of hiring an E & O consultant
88 for E & O insurance, both new items under New Business, Tab 9.

89
90
91 **On a motion duly made by Mr. Bushnell, seconded by Ms. Burke, it was,**

92
93 **RESOLVED to approve the meeting agenda for March 9, 2016 as**
94 **amended.**

95
96 **All in favor; Motion passed.**

97
98
99 Ms. Burke asked that for future meetings she would like the Commission members to
100 consider changing the order in which the Commission addresses the various items so that
101 it is more accommodating for the public. She suggested to change the order to: Call for
102 Order, approval of minutes, public comment, old business, new business, division
103 update. That would move the executive sessions to the afternoon as well as the reports.
104 These items do not have public comment and the information is available in the minutes
105 so there is no loss for the public.

106

107 Commission members discussed Ms. Burke's proposal and agreed to leave it up to the
108 Executive Administrator, Investigator, and the Chair to organize the agenda. The agenda
109 will be organized based on the concerns of the Commission discussed, what needs to be
110 addressed at the meeting, as well as taking in consideration what will be easier for the
111 Commission members and the public.

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114 **Agenda Item 2 - Approval of Meeting Minutes December 2, 2015**

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

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RESOLVED to approve the December 2, 2015 meeting minutes.

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All in favor; Motion passed.

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125 **Agenda Item 3 – Consent Agreements-Education**

126 Commission members discussed in Executive Session under Tab 5(b) with other Consent
127 Agreements.

128
129

130 **Agenda Item 4 - Public Comment**

131 Shana Ackles, Broker for Keller Williams Realty, AK Group, presented a letter on the
132 follow up of the Post Licensing Education that she and other brokers have worked on for
133 the past few months. Their recommendations were:

134
135

136 12 AAC 64.064. EDUCATION REQUIREMENTS AFTER INITIAL LICENSE. (a) In addition to the
137 education requirements of 12 AAC 64.063 for an initial license and the continuing education
138 requirements under 12 AAC 64.500 for license renewal, within one year after the date that the
139 commission issues an initial license to a real estate licensee under this chapter, the licensee shall
140 complete 30 hours of education that meets the applicable requirements of (b) or (c) of this section.
141 (b) After initial licensure as a salesperson, to meet the real estate education requirements of AS
142 08.88.095 and this section, the salesperson must complete the following course modules:

143
144

(1) contracts and agreements: nine contact hours, **Increase to Ten Hours Total**

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146

(A) purchase and sale agreements;

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(B) addendum and amendments;

149
150

(C) counteroffers;

151
152

(D) contingencies; (E) multiple offers;

(F) back up offers;

153
154

(G) differences between residential, land, and commercial transactions; (H) personal service
agreements; and

(I) negotiation and counseling;

155
156

(J) Lease Purchase Options

157
158

(2) property management: three contact hours; **Increase to Four Hours Total**

159
160

(A) landlord tenant act;

(B) rental, lease, and occupancy of residential and commercial properties;

(C) associations;

(D) cooperatives;

(E) personal service agreements, management agreements, and lease listing agreements; and

(F) security deposit statements;

161

(G) Trust Accounting and Statute Requirements

(H) Notices and Evictions

- 162 3) licensee law: three contact hours, **Increase to Six Hours Total**
163 (A) consumer pamphlet and waiver; (B) ethics;
164 (C) recovery fund;
165 (D) confidentiality; and
166 (E) conflict of interest;
167 **(F) Statute and Regulations**
168 (4) paperwork and risk management: six contact hours covering
169 (A) mandatory and area specific property disclosure; (B) environmental issues;
170 (C) zoning;
171 (D) covenants, conditions, and restrictions;
172 (E) title reports;
173 (F) resale certificates and public offering statements; (G) home inspections and repair
174 negotiations;
175 (H) surveys **and Easements**
176 (I) record keeping **and Documentation**
177 **(J) Client and Personal Safety**
178 (5) evaluation and pricing: four contact hours, **Decrease to Two Hours Total**
179 (A) competitive market analysis and appraisals; (B) showing property; and
180 (C) marketing to buyers and sellers
181 **(D) Property Research**
182 (6) financing to closing: five contact hours, **Decrease to Two Hours Total**
183 (A) the importance and differences of pre-approval letters and pre-qualifications, good faith
184 estimates, and loan types, including Internet lending programs;
185 (B) review of settlement statements, security deposit transfers, rent prorations, seller net
186 proceeds, and variations in loan costs;
187 (C) the closing process;
188 (D) good funds law; and
189 (E) predatory lending practices
190
191

192 **On a motion duly made by Ms. McConnochie, seconded by Ms. Barickman, it**
193 **was,**

194
195 **RESOLVED that the Real Estate Commission reallocate the Post**
196 **Licensing Education hours for new licensees based on the**
197 **recommendations that were presented to the Commission by Ms.**
198 **Ackles.**
199

200 **All in favor; Motion passed.**
201
202

203 Erroll Champion, Chair of the Industry Issues Committee for Alaska Association of
204 Realtors (AAR). Mr. Champion presented a quick review of the legislation that they are
205 watching.
206

207 SB 158 (Senator Costello) – this bill will increase the required hours of education for a
208 salesperson to upgrade to broker from 15 hours to 30 hours of education and increase the
209 years of experience from 2 years out of 3 years to 4 years out of 5 years.
210

211 HB 281 (Representative Munoz)- this bill reads exactly the same as SB 158. If SB 158 is
212 adopted and sent to the House for concurrence, the house will more than likely drop HB
213 281 and they will concur with SB158.
214

215 SB 76 – (Judiciary) this bill deals with activities of licensees prior to January 2005. The
216 legal opinion was that the statute of limitations has run out so the bill will die at the end of
217 this session.

218
219 SB 161- (Labor & Commerce) this bill is an act relating to the exemption from the
220 regulation of construction contractors.- What this bill will require is that improvements by
221 non-licensed contractors have to be disclosed, especially in remote areas. This will affect
222 real estate licensees if they represent someone who has built one of these properties and
223 did not disclosed that it was constructed by a non-licensed contractor. What the state is
224 saying is, if you intend on building and selling a house within 2 years, you have to be a
225 licensed contractor.

226
227 HB 307- (Representative LeDoux) would require all self-employed contractors and
228 individuals to provide worker's compensation insurance. The real estate has been down
229 this road several times. This exemption for real estate is in statute AS 23.30.230. This bill
230 was intended for sheet rock installers not real estate.

231
232 HB 312-(Representative LeDoux) an act relating to common interest communities
233 (condos).-this would eliminate the pre 1986 statute and let it roll into the post 1986 statute.
234 What the post 1986 statute says: is in the case of a delinquent common interest property,
235 the home owner's association could be entitled to 6 months of delinquent dues. AAR
236 supported this but the way the bill was written the language was so strong that it will
237 provide for super liens and it will take the first mortgage and any subsequent mortgage
238 people out of the first position. This could have serious ramifications because going into a
239 property sale and you have a first mortgage, they stand the risk of being displaced,
240 increased liability of lenders, and lenders monies. Therefore, this bill is being opposed by
241 the mortgage bankers, property managers, and others. This bill may not move forward.

242
243 The Commission, through the Chair, were in consensus to have Mr. Champion come back
244 later to discuss E & O insurance when that agenda item is presented.

245
246 Jerry Royse, Broker of Royse & Associates and a real estate educator, did not come in
247 with an agenda but did want to speak to the question that Mr. Bushnell raised regarding
248 SB 161 with the exemption of construction contractors. Mr. Bushnell asked if it would be
249 beneficial to change the property disclosure form to include the information on the
250 construction contractor's license number, etc. Mr. Royse said make it a dual responsibility
251 of disclosure for seller and licensee and that may get to the issue without putting licensees
252 at risk for information they may not know. If a licensee is dealing with somebody that is
253 building multiple homes using the exemption of their primary residence, it should be
254 disclosed. Mr. Royse said he did believe that changing the disclosure 34.70 would be
255 beneficial because anything the REC can do to help to enforce this helps the consumer.

256
257

258 **Agenda Item 6 – Executive Administrator's Report**

259 **Recovery Fund Balance Report – 6(a)**

260 Ms. Walsh presented the Recovery Fund financial reports to the Commission. She said
261 that the header was incorrect but a corrected spreadsheet was provided; the header
262 should read actuals for fiscal years ended June 30, 2012 through June 30, 2015 and the
263 projections are shown for June 30, 2016 and June 30, 2017. On the balance sheet, it
264 shows total revenue in fund balance as of the end of June 30, 2015 at \$454,216.

265 On the Statement of Revenues, Expenditures and Changes in Fund Balance, with the
266 quarter ending September 30, 2015 there were expenditures totaling \$23,260, revenues of

267 \$7,450 with a total end in the Fund Balance of \$438,454. The other expenditure and
268 revenue report is ending December 31, 2015, and it shows a total revenue coming in of
269 \$21,290, and total expenditures of \$34,040 with a total end balance of \$425,704. The REC
270 is in good standing with the Recovery Fund. This does not include any revenue that was
271 received during the renewal but will be captured on the next report at the June meeting.
272

273 Schedule of Revenue and Expenditure – 6(b)

274 Ms. Walsh said that the Division's Revenue and Expenditure report for 1st and 2nd quarter
275 report for the Real Estate Commission, will be covered by Martha Hewlett, the
276 Administrative Officer for the Division at 2:00 pm today.
277

278 Licensing Statistics/Renewal Report– 6(c)

279 Ms. Harris presented the licensing statistics for the Real Estate Commission. There were
280 65 new licenses issued from October 1, 2015 through December 31, 2015, Licensees with
281 an expiration date of 1/31/2018 was 2,479; total active (status of active) licensees during
282 this time period: 2,457. There were 71 license transfers; 7 inactive licenses, 11 returned
283 licenses, 4 licensees on probation, 61 licensees completed PLE, and 371 licenses have a
284 lapsed with an expiration date of January 31, 2106. There were 9 new offices registered
285 with the REC, 8 main offices and 1 branch office. Ms. Harris said the total FY16 Recovery
286 Fund fees collected for licensing from October 2015 through December 2015 totaled
287 \$6,000. She pointed out the renewal statistics for the Professional Licensing renewals as
288 of 02/16/2016. The REC had 2559 possible renewals, and 2443 licenses renewed online
289 and hardcopy combined.
290

291
292 **Agenda Item 7 – Education Report**

293 Education Statistics – 7(a)

294 Ms. Harris provided the Commission with the Education report. There are currently 7 pre-
295 licensing courses, 7 broker upgrade courses, 151 elective courses, 15 designated courses
296 and 13 post licensing courses approved with a total of 193 courses. There are 76
297 permanent instructors which includes 4 new instructors for this period. The Recovery Fund
298 fees collected for education for FY2016 totaled \$22,240.
299

300 Regulation Tracker – 7(b)

301 Ms. Harris presented the Regulation Tracker for the Commission to review. There is only
302 one outstanding regulation, 12 AAC 64.420 that was out for public comment that closed on
303 March 4, 2016. This regulation is on the agenda for the Commission's review and adoption
304 later on the agenda.
305

306
307 **Agenda Item 5 – Investigator's Report/Probation**

308 Statistical Report/Probation Report– 5(a)

309 Mr. Paff addressed the Commission and provided an investigative report for period of
310 November 17, 2015 through February 24, 2016. Since the last meeting, 17 matters were
311 opened and 14 were closed, 6 of which were intakes. A total of 23 matters remain on-
312 going either in an active investigation or litigation. There is only 1 case that is older than a
313 2015 date and that is at litigation and hopefully will be closed at the next meeting and that
314 will make all the cases current. This will allow Mr. Paff to move cases along as they come
315 in. There were 8 actions that were closed since the last meeting.
316

317 Mr. Paff introduced the new investigator, Nina Akers, who is the new probation monitor for
318 the REC. She will present the probation report in executive session.

319

320 Commission recessed for break at 10:00 a.m.

321

321 Commission reconvened from break at 10:22 a.m.

322

323 Disclosure Issues, Harriett Milks, Assistant Attorney General

324 Ms. Harriett Milks, Assistant Attorney General for Department of Law, was asked to speak

325 to the Commission regarding the issue of disclosure for public officials and board

326 members. Ms. Milks said the issue of disclosure is under the Executive Board Ethics Act,

327 AS 39.52. She said this requires that public officials who sit on a commission or board to

328 make disclosures of facts or matters that could potentially create a conflict of interest.

329 Usually what this means with regard to title 39 is that there is a personal or financial

330 interest. If there is any organization that you belong to that as an interest or a potential

331 interest in what the Commission does it should be put on the record, which means orally.

332 She said she has recommended to all the boards that she represents that they revisit the

333 issue of disclosure on a regular basis. When to disclose is determined by the Commission,

334 either at the beginning of every meeting, or once a year, etc.

335

336 Mr. Bushnell asked for clarification from Ms. Milks. He said if a Commission member feels

337 that they may have a potential conflict of interest, they should disclose. However, it is for

338 the Board or Commission to determine whether it is a conflict of interest and even if a

339 Commission member thinks they have a potential conflict, if the Board/Commission

340 decides it is not a conflict, they can vote.

341

342 Ms. Milks said that was correct.

343

344 Ms. Cartledge stated that she understood the disclosure at the beginnings of the meetings,

345 but isn't it incumbent on the individual Commissioners that if something came to light

346 during a discussion that they would benefit them financially on a personal level, isn't it

347 incumbent upon that Commissioner to disclose? Then from that point, the Commission will

348 determine whether or not there is a conflict.

349

350 Ms. Milks said that was correct.

351

352 Ms. Burke asked if a potential conflict or an appearance of conflict had been disclosed at a

353 prior time, is there any responsibility on the Commission to go back and review minutes

354 and documents that were filed to determine whether such a conflict had been disclosed?

355

356 Ms. Milks said no, it was not the Commission's responsibility/obligation to go back and

357 look what those associations were. She said, at the basis of everything Board/Commission

358 members do as public officers is transparency. They work for the people and their job is to

359 bring the work to the people in a transparent, clear, and predictable manner. She said in

360 order to do that it helps to have a unstated expectation which would be to disclose on a

361 regular basis.

362

363 Ms. Davis said that the Commission only meets four times a year so it would be at the

364 Commission's best interest to have Ms. Walsh or herself ask at every meeting if anyone

365 has any disclosures.

366

367 Ms. Walsh took a roll call of each Commission member and they made their disclosures.

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369 Consent Agreements – 4(b)

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

RESOLVED that they go into executive session. Ms. Barickman stated: In accordance with AS 44.62.310(c): I move we go into executive session for the purpose of discussing subjects that tend to prejudice the reputation and character of a person.

All in favor; Motion passed.

Into Executive session at 10:46 a.m.

Commission breaks for lunch at 12:15 p.m.

Commission reconvened at 12:45 p.m.

Out of Executive session at 2:06 p.m.

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

RESOLVED that they come out of executive session.

All in favor; Motion passed.

Consent Agreement 2016-0000145

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

RESOLVED to reinstate case #2016-000145 effective immediately.

All in favor; Motion passed.

The REC approved the case #2016-000145 in the matter of Kevin Baker.

Consent Agreement 2016-000071

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

RESOLVED to accept the Consent of Agreement in case #2016-000071.

All in favor; Motion passed.

The REC approved the Consent of Agreement in the matter of Teresa Held.

Consent Agreement 2015-000333

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

423 **RESOLVED to accept the Consent of Agreement in case #2015-**
424 **000333.**

425
426 **All in favor; Motion passed.**

427
428 The REC approved the Consent of Agreement in the matter of Elizabeth Steele.

429
430 Consent Agreement 2015-001013

431
432 **On a motion duly made by Ms. Cartledge, seconded by Ms. McConnochie, it**
433 **was,**

434
435 **RESOLVED to accept the consent agreement subject to the reduction**
436 **in fine for case #2015-001013.**

437
438 **4 members in favor (McConnochie, Cartledge, Burke, Harvill). Bushnell and**
439 **Barickman abstained. Motion passed.**

440
441 The REC approved the consent agreement in the matter of Fred Braun.

442
443 Consent Agreement 2015-001324

444
445 **On a motion duly made by Ms. Cartledge, seconded by Ms. McConnochie, it**
446 **was,**

447
448 **RESOLVED to accept the voluntary license surrender in case #2015-**
449 **001324.**

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

452
453 The REC approved the voluntary license suspension in the matter of Phyllis Enoch

454
455 Consent Agreement 2016-000030

456
457 **On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it was,**
458

459 **RESOLVED to accept the license surrender in case #2016-000030.**

460
461 **All in favor; Motion passed.**

462
463 The REC approved the license surrender in the matter of Clifford Penn.

464
465
466 **Agenda Item 8- Old Business**

467 **Broker Manual Update – 8(a)**

468
469 This item (Broker Manual) was tabled to the June 2016 meeting.

470
471 **On a motion duly made by Ms. McConnochie, seconded by Mr. Bushnell, it**
472 **was,**

473

474 **RESOLVED to table the Broker Manual to provide for further review at**
475 **the June 2016 meeting.**

476
477 **All in favor; Motion passed.**
478

479
480 Letter AAR 1/15/16 from REC – 8(b)

481 Ms. Walsh provided the REC with a copy of the letter that was sent to the AK Association
482 of Realtors in January regarding their assistance on legislation increasing Broker
483 education from 15 hours to 30 and experience from 24 months to 48. Legislation was
484 subsequently proposed as SB158 and HB281 to introduce this change in both the Senate
485 and the House.

486
487 Review of RF fees hand – receipted vs. RF f/s – 8(c)

488 Ms. Harris was asked by Ms. Burke at the December meeting to inquire into whether or
489 not her hand-tallied receipts coincide with the financial reports provided to us from the
490 Division. In carrying out this review it appears that the hand tracking was different by
491 \$230.00 for the last quarter.

492
493 Consumer Disclosure Use w/Teams – 8(c)

494 Ms. Barickman was asked by Ms. Davis if we could table this agenda item in the interest of
495 time today.

496
497 It was decided to table this issue until the June 2016 meeting.
498

499
500 **Agenda Item 9 – New Business**

501 Recovery Fund-Consumer info on website – 9(b)

502 Ms. Walsh spoke to the issue of providing more information to the consumer on the
503 Recovery Fund as requested by Ms. Burke at the December 2, 2015 meeting. Ms. Walsh
504 provided a new information sheet that would be posted to the REC web site but didn't
505 know what else Ms. Burke wanted as far as providing additional consumer information.
506 Ms. Burke stated that this information sheet was a start however, she thought more
507 consumer information should be provided through advertising in publications throughout
508 the real estate industry. She stated that perhaps an informative insert could be included in
509 newspapers or industry publications or as a public notice. Advertise to consumers on how
510 to file a recovery fund claim if they suffered a financial loss in a real estate transaction.
511 She wants the real estate industry to help out with this matter and provide for it when
512 someone files a complaint or dispute with the Realtor boards. Mr. Bushnell had two
513 points: 1) not a proponent of putting it in the newspaper-not money well spent.
514 Second point he made is that Realtors are only about 50-percent of all licensees and that
515 is a limitation. Ms. McConnochie asked Ms. Cartledge how does the AK Bar Association
516 do outreach for their malpractice complaints? Ms. Cartledge stated that there are two
517 types of complaints filed with the Bar Association: Fee disputes and ethics. Ms. Barickman
518 stated she agreed that this is money not well spent and supports Mr. Bushnell's
519 comments. She also indicated that she thought the information updated on the Recovery
520 Fund provided in the meeting packet was good and should be on the REC web site. Ms.
521 Burke stated that it is critical for consumers to know how to recover from a financial loss of
522 a real estate transaction as a result of fraud, an intentional tort, deceit, or the conversion of
523 trust funds on the part of a licensee. She also stated that the REC hasn't spent a penny
524 since she has been on the REC in educating the public and that we need to start thinking
525 how we can get this information out to the general public. Ms. McConnochie asked Ms.

526 Burke if her reason for doing this was that not enough claims have been filed? Ms. Burke
527 stated she is using this as proof that very few people have used this and she doesn't
528 believe that only 2 financial losses have occurred in the past few years. Ms. McConnochie
529 stated that she believes people know where to call to complain about licensees and is
530 satisfied with the ways to file a claim against licensees in this state.
531 Ms. Harvill stated she was in agreement with Ms. McConnochie. Ms. Burke stated she is
532 asking for help and that it's improbable that only 2 claims have been filed. She expressed
533 her concern that the REC is not fulfilling its mission to protect the public. Ms. Barickman
534 stated that the Recovery Fund is not a problem and that consumers can find it. She
535 indicated that the REC is wasting time to make something out of this and that we just
536 tabled two critical items the Broker Manual and dealing with teams. Ms. Cartledge
537 suggested that staff send the Recovery Fund changes to them and get comments back on
538 this for the June meeting.

539
540

541 Legislation Review SB158 and HB 290/ and CBPL Legislative Guidance for Boards and
542 Commissions – 9(c)

543 Commission members reviewed proposed legislation and were previously briefed on these
544 bills by AAR Industry Chairman, Errol Champion during public comment.

545
546

547 **Agenda Item 10 – Division Update**

548 The Director of Corporations Business and Professional Licensing, Janey Hovenden and
549 Martha Hewlett, Fiscal Officer, addressed the Commission via teleconference. Ms. Hewlett
550 provided the Division Revenue & Expenditure report for the first and second quarters of
551 FY16. The report shows an ending cumulative surplus of \$196,559 with an estimated
552 Indirect Expenditure for the fiscal year of \$169,382 which will have a final number (actual)
553 after the fiscal year closes. Ms. Hewlett indicated that there would be a change in revenue
554 since the REC just went through license renewals. Director Hovenden asked about the
555 issue of REC Errors & Omission insurance and if the Commission had made a decision.
556 Chair Davis indicated that item was next on the agenda and they would let her know the
557 status after the meeting.

558

559 E & O Insurance – 9(a)

560 Chair Davis asked that Mr. Champion return to the table to discuss E & O insurance and
561 the current legislation tied to the sunset of the REC HB290. Mr. Champion stated that he
562 and Chair Davis met with Representative Olsen's staff on February 23, 2016. They were
563 told that the E & O issue needs to get fixed and to make it work. Ms. Walsh provided them
564 with a timeline of events over the years. There was a meeting on March 4, 2016 with Rep
565 Olsen's staff Laura Stidolph, Conrad Jackson, Directors of CBPL Hovenden and Insurance
566 Wing-Heier, CBPL Operations Manager Chambers, Dept of Law Assistant AG Dinengar
567 and AAR Lobbyist Denny DeWitt. Those in attendance via teleconference were REC
568 Executive Administrator Walsh and Chair Davis. There was broad discussion about how to
569 fix the issue of E & O. Some of the discussion centered on making a change to the
570 existing statute requiring a master E & O policy. The other discussion was to hire a
571 consultant that has knowledge of E & O that could work with the REC to assist in obtaining
572 a master E & O policy. Ms. McConnochie asked Mr. Champion if AAR could help the REC
573 out on this? Ms. Burke reminded the REC that the original legislation is very restrictive and
574 so are the regulations that were implemented. She stated that there are additional options
575 that can be looked into-change the wording on the Invitation to Bid. There are pages of
576 non-relevant information. She went on to list the problems with E & O: too narrow, too
577 restrictive, no underwriting data on claims made, who has it, who doesn't, no historical

578 information, very risky-that is why you ask for one year to accumulate data and then
579 negotiate, premium is too low but can be changed and tying it to the Consumer Price-
580 Index (CPI) is irrelevant because increases have to be based on experience. Ms. Burke
581 stated that we can address the issues that were in the initial ITB. Chair Davis indicated
582 that Representative Olsen's office wants this issue to get done fast.

583

584 **On a motion duly made by Mr. Bushnell, seconded by Ms. Barickman, it was,**

585

586 **RESOLVED that REC staff to work with Marianne Burke and with the**
587 **Department to hire a consultant to move this issue.**

588

589 Ms. Cartledge offered an amendment seconded by Ms. McConnochie to the motion, there
590 needs to be a dollar amount \$25-40,000. At a cost not to exceed \$50,000.

591 Ms. Burke stated that the only thing the consultant can give us is data and we don't have
592 data and to obtain that data will cost a fortune. Chair Davis said the recommendation was
593 to hire a consultant to get this done. Ms. Harvill asked what does this mean, it's too broad.
594 Ms. Walsh stated that they would look at our existing statutes and regulations and find out
595 what is out there in the market for us.

596

597 Ms. McConnochie asked if we could take a survey of the Brokers and find out who does
598 not have E & O and get an idea of users out there. Ms. Burke stated a Master Policy is
599 based on economies of scale, therefore, you would get a better rate in a pool. She
600 recommended that the REC put out a properly worded RFP/ITB and no cost is involved.
601 Mr. Bushnell stated that 12 AAC 64.600 insurance is required for Brokers, Associate
602 Brokers and Salespersons must submit proof of E & O insurance. We need to figure out
603 another way to make it happen. Chair Davis indicated that the problem is the language in
604 the statute. Ms. McConnochie stated that she worked with Dave Feeken on getting this
605 legislation passed. They spoke to states that had E & O requirements and a master policy.
606 Ms. Cartledge asked if the REC can get a change to legislation and have all licensees get
607 E & O and not have a master policy. Ms. Burke stated we need to change statute and
608 require if you have a license you will be required to have E & O.

609

610 Mr. Bushnell removes his motion from the floor and makes a new motion:

611

612 **On a motion duly made by Mr. Bushnell, seconded by Ms. Barickman, it was,**

613

614 **RESOLVED that a subcommittee be formed to find information,**
615 **Marianne Burke and REC staff to work with Department to find a**
616 **consultant to correct the problem with E & O with the maximum bid of**
617 **\$50,000 within 30 days.**

618

619 **Discussion with members. Ms. Barickman calls for the question.**

620

621 **Majority in favor; Motion passed. Ms. Burke abstained and Ms. Barickman opposed.**

622

623

624 Commission recessed for break at 3:45 p.m.

625 Commission reconvened from break at 3:49 p.m.

626

627

628 Regulation 12 AAC 64.420 – 8(e)

629

630 **On a motion duly made by Mr. Bushnell, seconded by Ms. Harvill, it was,**

631

632 **RESOLVED to accept the proposed regulations 12 AAC 64.420.**

633

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

635

636 Out of State Brokers – 8(e)

637 Mr. Bushnell asked for input from Investigator Paff regarding out-of-state brokers,
638 specifically, how can the REC Investigator stop out of state Brokers? Mr. Paff said he
639 would be meeting with the CCIM group on April 16. Ms. Walsh indicated that in the past
640 the Investigators have used a Cease and Desist Order against licensees from the lower-
641 48. Ms. McConnochie stated that the law allows for co-brokering a property with an Alaska
642 licensee. Ms. McConnochie asked that Investigator Paff look into this further and report
643 back.

644

645 Mr. Paff informed the Commission that his travel to ARELLO this year was not approved to
646 attend the ARELLO Investigator Workshop.

647

648 Change in Reinstatement fee – 8(f)

649 Ms. McConnochie asked that this item be taken up at the June meeting.

650

651

652 **On a motion duly made by Ms. McConnochie, seconded by Ms. Barickman, it**
653 **was,**

654

655 **RESOLVED to adjourn the meeting.**

656

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

658

659 **Meeting adjourned at 4:11 p.m.**

660

661

662

663

Prepared and submitted by:
Real Estate Commission Staff

664

665

Approved:

666

667

668

Nancy Davis, Chairperson
Alaska Real Estate Commission

669

670

671

Date: _____

672

673