

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 September 21, 2016
9

10 By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article
11 6, a scheduled meeting of the Real Estate Commission was held September 21, 2016, at
12 the State of Alaska Atwood Building Suite 1270, 550 W. 7th Avenue, Anchorage, Alaska.
13

14 **Wednesday, September 21, 2016**

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

16 Chairperson Nancy Davis called the meeting to order at 9:59 a.m. at which time a quorum
17 was established.
18

19 **Roll Call – 1(a)**

20 **Members present:**

21 Nancy Davis, Broker, 1st Judicial District, Chair

22 Marianne Burke, Public Member

23 Eric Bushnell, Associate Broker at Large

24 Stacy Harvill, Associate Broker, 4th Judicial District

25 Cindy Cartledge, Public Member

26 Peggy Ann McConnochie, Broker, Broker at Large-*(via telephone for part of the day and in
27 person for the remainder)*
28

29 **Members present via Telephone:**

30 Traci J. Barickman, Broker, 3rd Judicial District-*for agenda item #9(c)*
31

32 **Staff Present:**

33 Sharon Walsh, Executive Administrator- *(present for 2 hours then left for ARELLO Conference)*

34 Nancy Harris, Project Assistant

35 Jay Paff, Investigator

36 Nina Ackers, Investigator
37

38 **Staff Present via telephone:**

39 Charles Ward, Paralegal II, CBPL

40 Janey Hovenden, Director, CBPL
41

42 **Guests Present:**

43 Robert Auth, Assistant Attorney General, Department of Law

44 Errol Champion, Representative for AK Association of Realtors and Broker of Coldwell
45 Banker Race Realty, Juneau

46 Chris Rehkopf, Salesperson, RE/MAX Dynamic Properties, Anchorage

47 Jan Carolyn Hardy, Salesperson, GTK Commercial Real Estate, Anchorage

48 Renea Miller, Associate Broker, Alaska Association of Realtors, Anchorage

49 Todd Held, Associate Broker, Keller Williams Realty, AK Group, Anchorage

50 Tara Blanche, Salesperson, Keller Williams Realty, AK Group, Anchorage

51 Linda Sharp, Broker, Consulting Services, Anchorage

52 Waltraud Barron, Broker, Barron Investments, LLC, Anchorage

53 Diane Greger, Associate Broker, Distinctive Properties, Anchorage

54 Devon Thomas, Broker, Century 21 Realty Solutions, Wasilla
55 Eva Loken, Associate Broker, Jack White Real Estate, Eagle River
56 Kevin Elfrink, Associate Broker, Globe Real Estate, LLC, Anchorage
57

58 Guests Present via Telephone:

59 Bob Bickel, Broker, Alaska Fine Homes and Real Estate, LLC, Palmer
60

61 Approval of Agenda- 1(b)

62 Commission members reviewed and discussed the meeting agenda and had no additions.
63
64

65 **On a motion duly made by Mr. Bushnell, seconded by Ms. Harvill, it was,**
66

67 **RESOLVED to approve the meeting agenda for September 21, 2016**
68 **with flexibility.**
69

70 **All in favor; Motion passed.**
71
72

73 Agenda Item 2 - Approval of Meeting Minutes

74 March 24 2016 – 2(a)
75
76

77 **On a motion duly made by Mr. Bushnell, seconded by Ms. Harvill, it was,**
78

79 **RESOLVED to approve the March 24, 2016 meeting minutes.**
80
81

82 Ms. Harvill stated there was a correction needed on page 2, change “to only a
83 requirement” to read “to be a requirement”.
84

85 **All in favor; Motion passed.**
86

87 June 2, 2016 – 2(b)
88
89

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

92 **RESOLVED to approve the June 2, 2016 meeting minutes.**
93
94

95 Ms. Harvill stated there was a correction on line 277, it should read REC concern was and
96 add the word “not”.
97

98 **All in favor; Motion passed.**
99

100 June 7, 2016 Teleconference – 2(c)
101
102

103 **On a motion duly made by Ms. Cartledge, seconded by Ms. Harvill, it was,**
104

105 **RESOLVED to approve the June 7, 2016 teleconference meeting**
106 **minutes.**

107
108 **All in favor; Motion passed.**
109

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

112 **E & O Regulation Project re-cap – 3(a)**

113 Ms. Burke provided the REC and audience a synopsis of the proposed E & O regulation.
114 She emphasized that it was important that the REC was involved in this Division regulation
115 project. She then addressed some common concerns such as additional E & O coverage
116 needed if a licensee already carries it through the Brokerage. She stated that additional
117 coverage is not required if you already have coverage that meets the minimum
118 requirements in regulation.
119

120 The other concern was the “not to exceed \$2500.00” premium in this proposed regulation.
121 The premium in the previous regulation was \$300.00 and no insurance company provided
122 a bid on a master E & O policy. She indicated that the Insurance industry is highly
123 regulated and cannot arbitrarily set their rates. They must prove that those rates are
124 justified. If we had experience like other states that carry E & O insurance, the insurance
125 company could go through that experience and consider probabilities of claims etc. She
126 urged licensees to keep in mind that the State of AK Division of Insurance requires that
127 fees are justified. It was never the intent that the premium be \$2500.00. This is in there to
128 encourage insurance companies to be competitive. She went on to state that after we get
129 a record of experience the insurance company can adjust future premiums based on
130 actual experience and rate approved by Division of Insurance. She also addressed the
131 term “Tail Coverage”, this covers a licensee for a period after they have stopped practicing
132 real estate. She stated that you must have insurance to protect the public and yourself.
133 This is similar to car insurance-E & O is claims made, not incurred claims. Occurrence
134 basis is different from claims made-this insures you for any claim made during the period
135 of policy. It’s different from occurrence basis which says if the event which resulted in the
136 loss, happened in the policy period you are covered; even though no one filed a claim until
137 2 years later. This type of insurance protects you after you have left the industry and
138 someone files a claim against you for something that happened some time ago. This type
139 of insurance is optional, you can choose to have it. The REC chose to include that option.
140 We also adjusted the claims limits because we do not have the information. Greater limits
141 are a minimal increase in costs. The cost is in the first dollar of coverage. Anyone can buy
142 their own E & O insurance and as long it meets minimum requirements in regulations. Ms.
143 Burke stated that insurance must be specific to the licensee.
144

145 Mr. Bushnell suggested a change to the regulation language on page 5 section 2, “a
146 broker *employing* other real estate licensees. He pointed out that most licensees are
147 independent contractors and not employees.
148

149 Ms. Barickman joined the meeting via telephone from the highway before entering
150 Canada.
151

152 Chairperson Nancy Davis opened up the meeting for public comment on the E and O
153 regulation project.
154

155 **Errors and Omission Insurance Proposed Regulations – 3(b)**

156 **Errol Champion**

157 Mr. Champion addressed the Commission and indicated that he had a prior conversation
158 with an insurance company who provides E & O insurance to a number of other states
159 who require licensees to carry E & O. He provided a packet of information he had received
160 from Cindy Grissom of Rice Insurance Services Company. He would like this to be
161 considered for the record on this regulation project. He reiterated that HB158 that was
162 passed this past legislative session, requires that every licensee will be required to have E
163 & O insurance by December 2018.

164
165 Ms. Davis thanked Mr. Champion for all his assistance this past legislative session.
166

167 **Shalom Cederberg**

168 Ms. Shalom Cederberg from the Office of the Governor, Boards and Commissions
169 addressed the Commission regarding the upcoming term limits for 3 Commission
170 members, Ms. Davis, Ms. Harvill and Mr. Bushnell. If they wish to remain and have not
171 served two terms they will need to submit a letter of interest to her office.
172

173 **Linda Sharp**

174 The Commission heard from Broker, Linda Sharp. She is opposed to E & O insurance as
175 proposed. She indicated that she would like a survey conducted on all who would be
176 effected individually and weigh responses individually as opposed to large brokerage or
177 the Realtors Association. She would like to see E & O for this industry dealt with in a
178 similar way that medical doctors, engineers or anyone else. E & O should be affordable
179 percentage wise to a doctor or a practitioner in real estate. She stated that the proposed
180 regulation of a \$2500.00 fee could push people out of the industry. She would like to know
181 if the REC and the Legislature would accept a licensee designed risk pool-self insured.
182 She also discussed claims made against the Surety (Recovery) Fund and said she would
183 submit a Freedom of Information Act (FOIA) request. She also asked about the solidity of
184 insurance companies operating in AK. She said she doesn't have confidence in insurance
185 companies and pointed to AIG as an example. She would like to have the Commission
186 assess a larger fine if a licensee has damaged the public. She ended by saying the cost of
187 an insurance policy to an individual licensee makes a world of difference but that \$2500 is
188 a much bigger issue.
189

190 **Waltraud Barron**

191 Ms. Barron addressed the Commission. She is the Broker of Barron Investments and a
192 member of Independent Brokers. She stated that we need a solution to the E & O
193 requirement. Recommended that more thought be put into how it would work and an
194 extension of time for implementing this requirement. She asked about the number of
195 claims filed.
196

197 Ms. Burke stated the problem is we have no idea how many claims have been filed-we
198 don't have a database of history on E & O. We have no legal authority to get that
199 information now.
200

201 Chairperson Nancy Davis stated that it is not the intent of the REC to have small
202 businesses go out of business. We are trying to make sure that the public and the
203 licensees are protected.
204

205 **Bob Bickel, via teleconference**

206 Mr. Bickel is Broker of Alaska Fine Homes Real Estate, LLC. He testified to the REC from
207 Wasilla. He stated that he carries E & O insurance and that the \$2500 amount is out of line
208 and should be cut in half.

209

210 **Eva Loken**

211 Ms. Loken is an Associate Broker with Jack White Real Estate. She stated that she was
212 thrilled about the proposed regulations and hopes that it will work. She would like to see E
213 & O insurance even if it's \$2500.00

214

215 **Todd Held**

216 Mr. Held addressed the REC and suggested that a way to get data from licensees would
217 be through license renewals by asking a series of questions aimed at obtaining claim
218 information.

219

220 Mr. Bushnell stated that may be problematic if a settlement was reached and those are
221 confidential and therefore, the licensee can't discuss.

222

223 Ms. Cartledge stated sometimes that's the only way that people will settle a matter.

224

225 Chairperson Davis thanked everyone for their testimony and moved on to agenda item 3c.

226

227 Director Hovenden signed off and thanked Ms Burke, Ms Davis and Ms Walsh for the work
228 on the sub-committee. Ms. Burke thanked Director Hovenden for living up to her word to
229 get the regulations out for public comment by the September REC meeting.

230

231 **Letter from Housing and Neighborhood Dev. Comm.– 3(c)**

232 Letter to REC from the Municipality of Anchorage, Housing and Neighborhood
233 Development (HAND). Mr. Bushnell indicated that this is in-depth, complicated HUD
234 stance will impact all licensees in AK. This letter should be on the REC web site and
235 provided to all licensees-they need to be aware.

236

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

238

239 **RESOLVED that this letter be distributed to all licensees placed on the**
240 **web site and ListServ**

241

242 **All in favor. Motion passed.**

243

244 Ms. Barickman was no longer available by phone. Ms. McConnochie was still available
245 and voted in favor.

246

247

248 **Agenda Item 5 – Executive Administrator's Report**

249 **Recovery Fund Balance Report – 5(a)**

250 Ms. Walsh stated to the Commission that there is not a Recovery Fund report available
251 from the Administrative Services Division (ASD) for this quarterly meeting. She also
252 reported that the Revenue & Expenditure report is not available from Martha Hewlett,
253 CBPL Administrative Officer. She indicated that she just received the reports and wanted
254 to review the information before disseminating to all boards and commissions.

255

256 Jay Paff, Investigator told the REC to expect an increase from the Department of Law
257 billing this last quarter (however, this report would not have the information because it is
258 for FY16 4th quarter and his reference is for the recent Department of Law activity-FY17).
259

260 Ms. McConnochie stated that she is boarding the airplane and will sign off from the
261 meeting.
262

263 Ms. Burke would like to make sure issues on year-end AJE's are reflected as resolved, on
264 financials.
265

266 Licensing Statistics Report– 5(b)

267 Ms. Harris, Project Assistant for the Real Estate Commission, presented the licensing
268 statistics to the Real Estate Commission. There are currently 2675 total licensees and
269 2588 active status; 22 inactive; 2 deceased; 79 completed PLE; 14 lapsed due to non-
270 compliance of PLE; 99 transferred their license during this quarter; 7 offices opened.
271

272 CE Audit delegation of authority – 5(c)
273

274 **On a motion duly made by Mr. Bushnell, seconded by Ms. Harvill, it was,**
275

276 **RESOLVED that the REC give the Executive Administrator the**
277 **authority to review all Continuing Education Audit and forward to**
278 **Division Paralegal for processing.**
279

280 **All in favor. Motion passed.**
281

282
283 Agenda Item 6 – Education Report

284 Education Statistics – 6(a)

285 Ms. Harris, Project Assistant for the Real Estate Commission, presented the Education
286 report.
287

288 Ms. Harris asked the Commission to revisit the guidelines for the DCE topics and add
289 topics to reflect the DCE topic Consumer Protection. The DCE topic Consumer Protection
290 currently indicated possible topics 6- contract, 10-financing real estate, 15-listing
291 responsibilities, 22-real estate brokerage management, and 27-title insurance and lien
292 laws, under that subject area. The guidelines indicate subject areas TRID, anti-trust price
293 fixing, fair housing, advertising, and property disclosure; however, two of those topics, fair
294 housing (9) and property disclosure (19) are not one of the possible topics for the DCE.
295

296
297 **On a motion duly made by Ms. Harvill, seconded by Mr. Bushnell, it was,**
298

299 **RESOLVED add topics 9 and 19 to the list of DCE education topics for**
300 **Consumer Protection.**
301

302 **All in favor. Motion passed.**
303

304
305 Regulation Tracker – 6(b)

306 Ms. Harris presented the Regulation Tracker to the Commission for their consideration.
307 There are two outstanding proposed regulation, 12 AAC 64.420 and 64.063 for the
308 Commission's consideration today.
309

310 Ms. Harris asked the Commission members for interpretation of Post Licensing education
311 (PLE) regulation 12 AAC 64.095(e). It reads in part, 12-months to complete and 30-days to
312 turn it into the REC. Ms. Harris asked would a license lapse when we know they did not
313 complete their PLE within 12-months or would it be okay to complete and turn in within
314 that 30-day period after the 12-months have passed? Ms. Cartledge stated that "or" simply
315 distinguishes between two conditions that need to be satisfied. Complete within the 12
316 month period and 30-days to submit it. Ms. Walsh stated for clarification, if someone does
317 not complete PLE within one (1) year their license lapses? Ms. Cartledge, yes, they have
318 to comply with both mandates.
319

320

321 **Agenda Item 4 – Investigator's Report/Probation Report**

322 **Statistical Report/Probation Report– 4(a)**

323 Investigator Nina Akers, presented the Commission with an updated probation report.
324 She said there are 7 new probationers, no one is off probation since the last report;
325 everyone is in compliance except for one individual who has lapsed. Ms. Burke asked if an
326 increase in number of licensees on probation, good or bad? Are we entering into more
327 Consent of Agreements? Ms. Ackers stated increases are good and bad.
328

329

329 Investigator Paff presented the investigative report to the Commission for the time period
330 February 24th through May 11, 2016. He stated that 20 matters were opened and 19 were
331 closed-3 of those were intakes; 17 are currently ongoing or under active investigation.
332 There are two cases at the AAG office about to go to hearing in the next 30 to 60 days and
333 hopefully there will be a resolution by the next meeting.
334

335

335 **Advisement letter discussion**

336 Ms. Cartledge asked Investigator Paff what is an advisement letter and who signs it?
337

338

338 Mr. Paff stated that he sends out the letter after an REC member reviews an issue. It is a
339 non-disciplinary action that is taken based on the recommendation by reviewing member.
340 It is usually minor, e.g. dates on a contract and need to correct in future transactions.
341

342

342 Ms. Cartledge asked if the advisement letter comes before the REC? Do you and the
343 reviewing member determine that it's non-actionable and thereafter send a letter?
344

345

345 Mr. Paff stated it is non-disciplinary action because REC doesn't take action and it doesn't
346 become public. This is a non-public form of advising the licensee there were minor
347 infractions that didn't reach discipline.
348

349

349 Ms. Cartledge asked, based on conclusions of the reviewing member?
350

351

351 Mr. Paff stated, yes, they make the determination.
352

353

353 Ms. Burke asked Mr. Paff, so the advisement letter is no longer used by the Investigator to
354 override the REC members?
355

356

356 Mr. Paff stated he can only speak to what he does.

357

358

359

Ms. Burke asked so it's no longer continuing to be used? Is it being used now?

360

361

362

363

Ms. Cartledge indicated that it might be useful for the Commission members to see them because it's going out on behalf of the REC and we are the Commission and may be part of our responsibility as a body to see them-for informational purposes only.

364

365

366

Ms. Burke said she agreed with Ms. Cartledge and that anything that goes out on Commission letterhead should be included in meeting packets.

367

368

369

Mr. Paff clarified that the advisement letters will not come in the meeting packet because of confidentiality.

370

371

372

373

374

375

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

RESOLVED to provide information in the Investigator's Report that if there is an Advisement Letter that the report states context of what letter addresses.

376

377

All in favor; Motion passed.

378

379

Mr. Paff stated that the next items require that the REC go into executive session.

380

381

382

383

Chairperson Nancy Davis advised that the Commission would continue on with other agenda items that did not require executive session.

384

385

386

Agenda Item 9 – New Business

FY17 Goals & Objectives – 9(a)

Short-Term goals:

387

388

389

390

391

392

1. **Determine the feasibility of securing a master policy for errors and omissions insurance; if feasible, place into service a master policy for errors and omissions insurance;**
2. **Finalize a "form" of Broker Manual**
3. **Resolve investigations within 16 months from date of opening a matter.**

393

394

395

396

397

398

399

400

401

402

403

404

405

406

Long-Term goals:

1. **Establish guidelines, as appropriate, relating to "team" licensees;**
2. **Establish means to enhance consumer awareness of the roles and responsibilities of licensees and Commission; and**
3. **Address statutory and regulatory matters, including revisions, to better protect the general public in real estate transactions (e.g. revise AS 08.88.171 (qualifications of licensure).**

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

RESOLVED to accept long-term and short-term goals.

407 Ms. Cartledge recommended that the Commission think about the Broker manual a bit
408 more. She asked do we want to be responsible for this manual?
409

410 Ms. Burke called for the question.
411

412 Ms. Cartledge said to finalize the Broker manual if we want one, if it's in the best interest of
413 the REC to get it published.
414

415 **All in favor; Motion passed.**
416
417

418 Commission recessed for lunch at 11:40 a.m.

419 Commission reconvened at 12:09 p.m.
420
421

422 Response to Cartus Issue – 7(f)
423

424 **On a motion duly made by Mr. Bushnell, seconded by Ms. Cartledge, it was,**
425

426 **RESOLVED that they go into executive session** in accordance with AS
427 44.62.310(c): I move we go into executive session for the purpose of
428 discussing subjects that tend to prejudice the reputation and character of a
429 person.
430

431 **All in favor; Motion passed.**
432
433

434 The Commission went into Executive session at 12:11 p.m.
435
436

437 **On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it was,**
438

439 **RESOLVED to come out of executive session.**
440

441 **All in favor; Motion passed.**
442
443

444 The Commission came out of Executive session at 12:30 p.m.
445

446 **On a motion duly made by Mr. Bushnell, seconded by Ms. Cartledge, it was,**
447

448 **RESOLVED to request that the AGs office provide us with the**
449 **statement in regards to current statutes as they pertain to**
450 **commissions received by licensees.**
451
452

453 **Motion was amended by Mr. Bushnell, request a statement from the AG office in**
454 **regards to AS 08.88.401(b)(1) as it pertains to licensees receiving and distributing**
455 **their commissions. Ms. Cartledge is the second on the amendment.**
456

457 **All in favor; Amended motion passed.**

458

459

460

All in favor: motion passed.

461

462

463

Investigative Process/Review of cases

464

465

466

467

468

469

470

471

472

473

474

475

476

477

478

479

480

481

482

483

484

485

486

487

488

489

490

491

492

493

494

495

496

497

498

499

500

501

502

Contracts w/Earnest money at acceptance – 9(d)

503

504

505

506

507

508

Mr. Bushnell spoke to the Commission regarding contracts with verbiage that states earnest money due upon acceptance. He said that he has seen, received, and reviewed contracts that state earnest money is due upon acceptance. He tried to find where he could determine contract law on this but did not. He said in his opinion it is a promissory note. Basically they are saying if you accept my contract I will give you earnest money within 72 hours? When is acceptance? His concern was the potential for that earnest

509 money not to end up in the trust account in a timely manner and no way to know when it
510 was supposed to be there. He said it is also about protecting the public's interest with
511 those who make low ball offers with no intent on paying earnest money unless their offer is
512 accepted. He said that he is looking for how earnest money is handled at the contract
513 stage. If you do not have consideration you do not have a contract. Does saying I will give
514 you earnest money in 72 hours constitute consideration?
515

516 Ms. Davis said that an offer is not legal without earnest money.
517

518 Ms. Barickman said that there is nothing in statutes and regulations that address this
519 issue. If a buyer offers in that way and the seller accepts, and if the licensee does not
520 collect, it is on the licensee. We cannot dictate how the offer or counter terms.
521

522 Ms. Cartledge said yes, consideration, the courts will find that pretty easily. If they have
523 not satisfied the condition then it's the words that need to be focused on. What does the
524 contract say? What are the requirements if the condition hasn't been satisfied?
525

526

527 **Agenda Item 7- Old Business**

528 **AAR Letter to Governor RE SB158 – 7(g)**

529 Ms. Davis addressed the letter the Alaska Association of Realtors (AAR) sent to the
530 Governor in reference to SB 158. In the letter, AAR speaks of their support of SB158, and
531 identified a technical problem with section 4. The problem in section 4, the letter stated, is
532 that "licensees will be required to purchase E & O coverage in January of 2018 but the
533 AREC was given until December 31, 2018 to secure the master policy. The mandatory
534 requirement should not be in effect until after December 31, 2018."
535

536 Mr. Champion, AAR Liaison, said that AAR has received affirmation from the Governor's
537 representatives that they will correct the error with the effective date.
538

539 **Travel & Fiscal Policies- update – 9(e)**

540 Ms. Davis addressed the Commission regarding the State of Alaska's new cost saving
541 measures, and that they will no longer allow the Boards or Commissions to have four in
542 person (face to face) meetings a year. The Commission can have two in person meetings
543 a year and all other meetings will have to be video/audio conferenced, unless a strong
544 business rationale can be proven in the travel request.
545

546 The Commission members discussed the new travel policy.
547

548 The Commission asked that Ms. Walsh write a letter to the Director and explain the
549 justification the REC should have in person meetings.

- 550 1. Hard for the public to attend meetings and have guest speakers, especially through
551 teleconference.
552 2. Meetings show justification to conduct the business of the Commission which is
553 paid for by licensee fees.
554 3. The Commission unanimously is presenting this position.
555 4. These in person meetings are very important to the business of the Commission.
556 5. The Commission has been very frugal for many years. This past meeting two
557 members flew in day of meeting.
558 6. Licensees who attend a meeting receive credit, which is also a learning tool.

559 7. The Commission has a responsibility to the licensees and the public. This is very
560 important!

561

562 Schedule future meeting dates – 9(b)

563 Commission members discussed and scheduled the meeting dates for 2017.

564

565 March 8, 2017

566 June 14, 2017

567 September 20, 2017

568 December 6, 2017

569

570 Commission member PeggyAnn McConnochie joined the meeting at 1:38 p.m.

571

572 Notice from Real Estate Educator's Association (REEA)- 9(e)

573 Ms. Davis announced to the Commission that Ms. McConnochie has received her
574 Distinguished Real Estate Instructor Designation (DREI) from Real Estate Educators
575 Association (REEA). This designation was designed by REEA to recognize excellence
576 among real estate instructors. It is awarded only to those REEA members who
577 demonstrate outstanding knowledge of their profession, experience, and classroom
578 performance.

579

580

581 Update on amended regulation – 7(b)

582 12 AAC 64.064(b)- Post Licensing Education

583 Commission members reviewed the proposed regulations 12 AAC 64.064(b)-Education
584 Requirements after Initial License.

585

586

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

589

590 **RESOLVED to accept the proposed amendments to 12 AAC 64.064(b),**
591 **Education Requirements after Initial License.**

592

593 **All in favor. Motion passed.**

594

595 Commission members accepted the FAQs for 12 AAC 64.064(b).

596

597 12 AAC 64.063(b)- Broker Upgrade Education

598 Commission members reviewed and discussed the proposed regulations to increase
599 hours for broker upgrade requirements.

600

601 Ms. McConnochie said she would like to see a reexamination of information that licensees
602 studied and passed in order to get their license as a salesperson but at a higher level, a
603 broker's level. The licensee should have information on a broker's level for both general
604 and state statutes and regulations that they have to take and understand before they
605 actually take the test, because now becoming an associate broker or broker has a
606 completely different meaning. Ms. McConnochie said that she would put something
607 together and email it out for everyone's review.

608

609 The Commission agreed there would have to be a teleconference soon to get this out for
610 public comment. The changes to AS 08.88.091(c), AS 08.88.171(a) and (b) will be
611 effective January 1, 2017.
612

613
614 Commission recessed for break at 2:08 p.m.
615 Commission reconvened from break at 2:19 p.m.
616

617
618 12 AAC 64.420- 7(b) – Application for Course Certification
619 Mr. Bushnell presented his rewrite of regulation 12 AAC64.420(c).
620

621 (c) A course certified by the Commission under 12 AAC 64.500 may be offered for credit
622 from the date the Commission certifies the course until January 31 of the next even-
623 numbered year; except:
624

- 625 1) A course certified by the Commission to satisfy the requirements under 12 AAC
626 64.500(b)(1) may be offered for credit from the date the Commission certifies the
627 course until January 31 of the next even-numbered year that completes two full
628 licensing cycles.
629 2) A course that is certified by the Commission, that satisfies the requirements under
630 12 AAC 64.500(b)(2), from October 15 of an odd-numbered year through January
631 31 of an even-numbered year may be offered for credit from the date the
632 Commission certifies the course through the next full licensing cycle.
633

634 (g) The Commission shall provide course sponsors with applications for course
635 recertification by October 15 of the odd-numbered years. In order to maintain certification,
636 a course provider, for each course, must submit a complete renewal application on a form
637 provided by the Commission, along with all necessary attachments and renewal fees to
638 the Commission prior to the course's expiration date. Recertification is not effective until
639 the Commission has formally approved the course application.
640

641 Definition of full licensing cycle: A full licensing cycle is defined as the period from
642 February 1st of an even-numbered year until January 31st of the next even-numbered year.
643

644
645 **On a motion duly made by Ms. Harvill, seconded by Ms. McConnochie, it**
646 **was,**
647

648 **RESOLVED to that proposed regulation 12 AAC 64.420(c) be amended**
649 **as presented with the exception of removing from the first line in**
650 **paragraph (g), the word “the” in front of “course recertification” and**
651 **uppercases on the word Commission in (1) and (g), and adding the**
652 **definition of full licensing cycle as presented by Mr. Bushnell.**
653

654 **All in favor. Motion passed.**
655

656 Broker Manual Update – 7(e)

657 Commission members discussed the next step for the Broker's Manual.
658
659

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

662
663 **RESOLVED to take the broker manual off the REC's short term goals,**
664 **and leave it for another Commission to bring it back when they think**
665 **the time is right.**
666

667
668 **All in favor. Motion passed.**
669

670
671 Election of Officers- 9(c)
672 Chair-

673
674 **Ms. Barickman nominated Eric Bushnell for Chair. The nomination was**
675 **seconded by Ms. Burke.**

676
677 **Ms. McConnochie nominated herself for the position of Chair. The**
678 **nomination was seconded by Ms. Cartledge.**

679
680 **Ms. Burke closed the nominations. It was seconded by Ms. McConnochie.**

681
682 **All in favor; motion passed.**
683

684 Mr. Bushnell and Ms. McConnochie each addressed the Commission with information
685 about themselves, and why they **would** like to be Chair of the Commission.

686
687 Mr. Bushnell was elected to the position of Chair of the Commission by ballot vote.

688
689 Vice Chair-

690
691 **Mr. Bushnell nominated Cindy Cartledge for the position of Vice-Chair. The**
692 **nomination was seconded by Ms. McConnochie.**

693
694 **Ms. McConnochie closed the nominations. It was seconded by Ms. Burke.**

695
696 **All in favor; motion passed.**
697

698 Ms. Cartledge was elected to the position of Vice-Chair of the Commission by consensus.

699
700 Education Liaison-

701
702 **Ms. Harvill nominated Traci Barickman for the position of Education Liaison.**
703 **The nomination was seconded by Ms. Burke.**

704
705 **All in favor; motion passed.**
706

707 Ms. Barickman was elected to the position of Education Liaison of the Commission by
708 consensus.

709
710

Case: 14-1114REC decision review – 7(a)

711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737

738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755

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

RESOLVED to put on record the Commission's determination and basis for that determination in case #14-1114REC,

In accordance with AS 44.64.060 (e)(3), the Commission revises the enforcement action, determination of best interest, order, award, remedy, sanction, penalty or other disposition of the case as follows:

- That the real estate license be suspended for 365-days;
- That the licensee shall be on probation to run concurrently with the licensee's federal probation;
- Any conduct that leads to the determination of a violation of the licensee's probation will be a sanctioned offense and the Real Estate Commission (REC) can impose additional sanctions as appropriate;
- During this time the licensee is required to complete 18 hours of continuing education. The education required by this order shall be in addition to any education the licensee is enrolled in for completion of educational requirements and cannot be counted toward any license renewal. The curricula of the 18 hours shall be approved by the Commission's agent before the licensee registers for the course and shall include topics as determined by the Commission's agent. The licensee is to bear all costs to the education required by this order. It is recommended that the licensee attend one or two REC quarterly meetings and receive continuing education credit in the amount of one hour and can be used as an offset to the 18 hour education requirement.

The reasonable basis for the one-year suspension is as follows:

- 1) Facts were considered as a whole, not individually, when the Commission made its decision. [O'Hare engaged in conduct of which the commission demonstrating licensee's unfitness to engage in the real estate business.]
 - a. He allowed another to use his property to receive drugs for the benefit of someone else. Not only once but on multiple occasions. He then delivered the drugs to the person and in return received a few of the pills. He was told the drugs were not illegal but did not explain why he allowed Gattis to use his UPS box to allow for delivery.
 - b. He did not question the legality of the drugs – he simply stated Gattis told him the drugs were not illegal.
 - c. He stopped allowing use of his UPS Box by the individual after the death of a person taking such drugs. He did not, however, report Gattis to law enforcement regarding his involvement in the death of Matthew.
 - d. He learned that someone was having a medical emergency (associated with drugs) and did nothing. No 911 call and no call for medical help.
 - e. He pled guilty to knowingly and intentionally possessing a controlled substance with the intent to distribute it to another person.

756 f. He only told the truth about his involvement with drugs, Gattis and Matthew
757 once law enforcement officials began the investigation.

758 Trustworthiness, good judgment, and fitness to conduct business are essential to a real
759 estate licensee. Self-policing is essential in the real estate business. One needs to take
760 responsibility for their actions. One needs to ask questions not only for the benefit of the
761 client but also the public. Avoidance of the truth easily results in bad judgment in the
762 opinion of the Commission.

763
764 His youth (25 years) does not discount his actions. He committed the above acts in 2012
765 and at the same time applied for a real estate license. In 2014, he was convicted
766 conspiracy to distribute a controlled substance. Indeed the Commission was concerned
767 that sufficient time had not elapsed for O'Hare to evolve and understand his bad judgment
768 and criminal behavior. Bad judgment did not occur simply once or twice but multiple times.
769 And the bad judgment did not simply relate to receipt and distribution of drugs, but also a
770 failure to call emergency services to assist an individual, which was represented to be
771 "overdosing" on drugs.

772
773 Suspension of O'Hare's real estate license for one-year by the Commission was
774 reasonable based on the above.

775
776

777 **Commission members in favor Ms. Cartledge, Mr. Bushnell, Ms. Harvill, and**
778 **Ms. Burke. Ms. McConnochie recused herself from the voting on this issue.**

779
780

Motion passed.

781
782

783 CE Audit Issues (Paralegal info) - 6(d) and Consent Agreements – 4(b)

784
785

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

787
788

789 **RESOLVED** that they go into executive session in accordance with AS
790 44.62.310(c), for the purpose of discussing subjects that tend to prejudice
791 the reputation and character of a person.

792
793

All in favor; Motion passed.

794
795

The Commission went into Executive session at 3:14 p.m.

796
797

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

800
801

RESOLVED that they come out of executive session.

802
803

All in favor; Motion passed.

804
805

The Commission out of Executive session at 4:32 p.m.

803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853

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

RESOLVED to approve the Consent Agreement of case 2016-000932.

All in favor; Motion passed.

The Commission accepted the Consent Agreement is case 2016-000932 for Erwin Moser.

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

RESOLVED to accept the Consent Agreement in case 2016-000990.

All in favor; Motion passed.

The Commission accepted the Consent Agreement is case 2016-000990 for Joyce Haugstad.

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

RESOLVED to approve the Consent Agreement in case 2016-000382.

All opposed; Motion failed.

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

RESOLVED to adjourn the meeting.

Meeting adjourned at 4:37 p.m.

Prepared and submitted by:
Real Estate Commission Staff

Approved:


Eric Bushnell, Chairperson
Alaska Real Estate Commission

Date: 1-31-2017