

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 DECEMBER 6, 2017
7

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9 By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article
10 6, a scheduled meeting of the Real Estate Commission was held December 6, 2017, at
11 the State of Alaska Atwood Building, 550 W. 7th Avenue, Suite 1270, Anchorage, Alaska.
12

13 **Wednesday, December 6, 2017**

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

15 Chairperson Traci Barickman called the meeting to order at 9:05 a.m. at which time a
16 quorum was established.
17

18 **Roll Call – 1(a)**

19 **Members present:**

20 Guy Mickel, Broker, 1st Judicial District,
21 Marianne Burke, Public Member-via phone for part of the morning meeting
22 Eric Bushnell, Associate Broker at Large David Pruhs, Broker, 4th Judicial
23 District
24 Traci J. Barickman, Broker, 3rd Judicial District, REC Chairperson
25 Peggy Ann McConnochie, Broker, Broker at Large
26

27 **Members Absent:**

28 Cindy Cartledge, Public Member
29

30 **Staff Present:**

31 Sharon Walsh, Executive Administrator
32 Nancy Harris, Project Assistant Doug
33 Fell, Investigator
34 Karina Medina, Probation Officer
35 Sara Chambers, Deputy Director, Div of Corporations Business and Professional
36 Licensing
37

38 **Guests Present:**

39 Errol Champion, Representative for AK Association of Realtors and Broker of Coldwell
40 Banker Race Realty, Juneau
41 Anita Bates, Associate Broker, Dwell Realty, Anchorage Renee
42 Miller, Associate Broker, EXP Realty
43 Shana Ackles, Broker, Keller Williams Realty, AK Group
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45
46 **Approval of Agenda- 1(b)**

47 Commission members reviewed the meeting agenda.
48

49 **On a motion duly made by Mr. Bushnell, seconded by Ms. McConnochie, it**
50 **was,**
51

52 **RESOLVED to approve the meeting agenda for December 6, 2017 as**
53 **amended and discussed.**

54
55 Ms. Barickman asked that two items be added to the agenda, 4(g) Response to Proposed
56 Regulation (12 AAC 64.117) and 5(e) Motion to extend the REC to 2026.

57
58 Mr. Bushnell asked that an item be added to Tab 5 also, Use of DCE credits for ECE.

59
60 **All in favor; Motion passed with changes.**

61
62
63 **Chair Barickman asked if any of the Real Estate Commission (REC) members had**
64 **any conflicts of interest to disclose.**

65
66 Mr. Mickel from Ketchikan stated that his wife is the CEO of Tongass Credit Union and that
67 the use of credit unions will be discussed in Tab 5 New Business.

68
69 Ms. Barickman, indicated that she is an educator and owner of a real estate school.

70
71 Ms. McConnochie indicated that she too is an educator and owner of a real estate school.

72
73 Mr. Pruhs indicated that he will be submitting real estate courses in the near future.

74
75 Mr. Bushnell disclosed that he will soon be on the State Board of Realtors as a Director.

76
77 Ms. Burke did not join the meeting until the public comment section of the agenda.

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80 **Agenda Item 2 - Approval of Meeting Minutes**
81 **September 27, 2017 – 2(a)**

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83 **On a motion duly made by Ms. McConnochie, seconded by Mr. Mickel, it was,**

84
85 **RESOLVED to approve the September 27, 2017 meeting minutes.**
86 Ms. Harris provided written comments on the meeting minutes from Ms.
87 Burke via email. Ms. Burke had a change to page 2 line 73, change "written
88 claim" to "disputes". Chair Barickman asked that the staff review audio
89 recording for confirmation.

90
91 **All in favor; Motion passed with changes from Ms. Burke.**

92
93
94 **Agenda Item 3 – Public Comment**

95 Ms. Harris called Ms. Burke to have her join the meeting.

96
97 Errol Champion with the Alaska Association of Realtors (AAR) addressed the
98 Commission. He stated that he has a new title with AAR, he is now Chair of the Advocacy
99 Group which is the former Legislative Industries Group. He had two items to discuss with

100 the Commission. At a recent conference of the National Association of Realtors there was
101 an excellent presentation on "teams". He suggested that someone try to obtain this for the
102 Commission to view in the near future. His second item he addressed was the extension
103 of the REC. He said that AAR could help carry the lead on filing legislation. The REC
104 thanked Mr. Champion for his comments and would follow-up with him later today.

105
106 The other item brought in front of the REC for consideration was a letter from licensees at
107 Double Eagle Real Estate in Wasilla dated 12/5/2017. It was a letter of protest and
108 indicated that the costs for real estate licensees were "punitive" with the new requirement
109 of errors and omissions insurance. The letter went on to ask for the REC to consider
110 spreading the E & O cost over the year.

111
112 Ms. McConnochie stated that they don't need coverage with the master policy if the
113 Broker's policy has coverage for them.

114
115 Mr. Pruhs suggested that we ask the master E & O insurance provider to allow installment
116 payments.

117
118 Ms. Burke cautioned members that if we ask the insurance company to spread the costs
119 over a year that may only increase costs by adding a surcharge for this type of service.

120
121

122 **Agenda Item 4 – Old Business**

123 **Changes to Consumer Disclosure, registration of teams, prohibition of team terms - 4 (a-c)**

124 Mr. Bushnell expressed his concern with the use of multiple date-time stamped forms for
125 the Investigator. Team disclosure is a good idea-it educates the teams and the public on
126 who is doing things within the teams-it lays it out for the public. Don't make it hard for the
127 Investigator or Broker to review using multiple dates & times. This makes it confusing and
128 more complicated.

129
130 Ms. McConnochie stated that she likes the idea of one form date & time stamped with
131 initials because of the multiple changes in a licensee's relationship with a client.

132
133 After further discussion, Ms. Barickman stated that it is her understanding that there will be
134 no action on this item today. She then asked the REC where they want to go with this
135 document.

136

137 Ms. McConnochie stated that the Commission should look into what the 28 other states
138 have in their statutes or regulations and the 5 states that are currently in the process of
139 putting it in their statutes or regulations. She suggested that a workgroup made up of
140 Commission members be formed to look into this and report back to the Commission.

141

142

143 **On a motion duly made by Ms. McConnochie, seconded by Mr. Pruhs, it was,**

144

145 **RESOLVED to have the REC Chair put together a small workgroup**
146 **that will look at what has already been presented by Ms. Barickman**
147 **and Ms. Ackles, along with the 28-states that have legislation on**
148 **teams and those 5 states that have proposed legislation on teams: 1)**

149 **How should we register teams; 2) prohibited team terms and 3) make**
150 **changes to the REC Consumer Disclosure.**

151
152 **All in favor; Motion passed.**

153
154 Ms. Barickman asked for volunteers for this workgroup.

155
156 Ms. McConnochie and Mr. Pruhs agreed to work on this and report back at the next
157 meeting.

158
159 Changes to Regulation 12 AAC 64.118 adding signatures - 4(d)

160 Ms. Barickman indicated that Ms. Harris pointed out to her that it is in statute AS
161 08.88.615(7) so there didn't seem to be a need to make a change in regulation 64.118
162 where it indicates that the Consumer Disclosure is provided at the time specific assistance
163 is given. It is stated in AS 08.88.615(7), it is "signed" by that person.

164
165 Ms. Barickman asked if the REC needed to take further action.

166
167 Mr. Bushnell stated that was not needed if it is already in statute. There was no further
168 discussion.

169
170 Guidelines for Use of Consumer Disclosure - 4(e)

171 Mr. Bushnell asked about the creation of the video to standardize the message of licensee
172 relationships. Mr. Paff, the former Investigator, was looking into this issue but then moved
173 out of state. He suggested that in the meantime a white paper go out to the instructors with
174 the "do's and don'ts of explaining the licensee relationships.

175
176 Mr. Mickel stated that he wasn't sure what the fix is for this document, especially in a small
177 community.

178
179 Ms. McConnochie suggested that the REC wait until the regulation project on teams.

180
181 Mr. Bushnell indicated that classes are on-going and the regulation project takes 6-9
182 months.

183
184 Ms. Barickman asked Ms. Walsh to look into the video issue and respond with an update
185 at the March meeting.

186
187
188 **On a motion duly made by Mr. Bushnell, seconded by Ms. McConnochie, it**
189 **was,**

190
191 **RESOLVED to create a guideline for using the Consumer Disclosure.**
192 **Staff begins this with REC members input that can then be given to**
193 **instructors to create classes for teaching purposes.**

194
195 **On an amendment offered by Mr. Pruhs and seconded by Ms. McConnochie,**
196 **it was resolved to take the motion and conclude at the June meeting.**

197

198 **All in favor; Amendment passed.**
199 **All in favor; Motion passed.**

200
201

202 Department of Law Response to Cartus meeting - 4(f)

203 No action was taken on this item. REC members read an email from Assistant AG Auth
204 indicating that the Department of Law does not meet with private party attorneys unless
205 directed to do so by the Boards. This would be a direct cost to the REC. Commission
206 members discussed and no action was taken on this item.

207

208 Proposed Regulations 12 AAC 64.117 - 4(g)

209 Ms. Barickman told the REC members that this regulation was being returned to them
210 because the Regulation Specialist, Jun Maiquis, said that in statute under the Brokers
211 Written policy, "written policy" is stated and we cannot remove the word "written" in the
212 regulation project. Staff asked to review recorded meeting in September 2017 for exact
213 verbiage and get back after lunch.

214

215 Commission recessed for Break at 10:15 a.m.

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

217

218

219 **On a motion duly made by Mr. Pruhs, seconded by Ms. McConnochie, it was,**

220

221 **RESOLVED to reconsider proposed regulation (12 AAC 64.117) from**
222 **September 27, 2017 meeting of the REC.**

223

224 Commission members discussed creating a definition for teams so they can move forward.
225 Ms. Barickman calls for the vote.

226

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

228

229

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

231

232 **RESOLVED to take first page as presented in 12 AAC 64.117 Brokers**
233 **Written Policy.**

234

235 Discussion by Commission members. Ms. McConnochie indicates she likes 6(a) and (b) in
236 "e" version of proposal. Mr. Bushnell would like to see Brokers establish a policy on
237 teams. Ms. Barickman stated she would like to see something in regulations so we can
238 define it.

239 Mr. Bushnell states he would like to amend his motion.

240

241 **On an amendment by Mr. Bushnell and seconded by Mr. Pruhs, it was,**

242

243 **RESOLVED to change (6) on page 1 to include language from version**
244 **"E" including part "a" with the addition of "b" from version "T".**

245 (6) will now read: for the supervision of teams, if applicable. (a) to
246 include a policy covering the usage of the consumer disclosure 12
247 AAC 64.118 (b) how consumers are represented within a team.
248

249 All in favor; Amendment passed.
250 All in favor; Motion passed
251

252 **Agenda Item 5 – New Business**

253 **Use of Credit Union for Trust Accounts – 5(a)**

254 On a motion duly made by Ms. McConnochie, seconded by Mr. Mickel, it was,
255

256 **RESOLVED to put forth a regulation allowing real estate trust**
257 **accounts in credit unions.**
258

259 All in favor; Motion passed.
260

261 It was recommended to send the proposed regulation to the Department of Law to see if
262 there was a conflict with language in 08.88.351(3).
263

264 **Property Management Consumer Disclosure – 5(b)**

265 Ms. Barickman stated there is an issue with the consumer disclosure form where licensees
266 who work in property management want to present it to the tenant filled out.
267

268 Mr. Pruhs and Ms. McConnochie agreed to work on disclosure from the Committee and
269 present it at a later date to the REC.
270

271 **Set 2018 Meeting Dates - 5(c)**

272 The Commission set the meeting dates for future meetings in 2018.

273 March 21, 2018; June 20, 2018; September 26, 2018 and December 5, 2018.
274

275 **Reinstatement of License - 5(d)**

276

277 On a motion duly made by Mr. Bushnell, seconded by Ms. McConnochie, it
278 was,
279

280 **RESOLVED to reinstate Finis Sheldon's real estate broker license as**
281 **petitioned.**
282

283 All in favor; Motion passed.
284

285 **Legislation to extend REC to 2026 - 5(e)**

286

287 On a motion duly made by Ms. McConnochie, seconded by Mr. Mickel, it was,
288

289 **RESOLVED to ask for assistance from the Alaska Association of**
290 **Realtors with legislation to extend the Real Estate Commission to**
291 **2026.**
292

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

294

295

296 Use of DCE for ECE - 5(f)

297 Mr. Bushnell asked staff when did the use of Designated Continuing Education (DCE)
298 credits no longer apply to being used for an Elective Continuing Education (ECE) credit?
299 Ms. Harris indicated that prior to the introduction of guidelines a licensee could use DCE
300 for ECE. After the implementation of guidelines set up by the Commission that was no
301 longer allowed. Ms. Barickman stated that we need to find out when this occurred or
302 where that change came from. Ms. Walsh indicated that staff would have more time after
303 renewals to look into this issue.

304

305

306 **Agenda Item 6 – Executive Administrator’s Report**

307 Licensing Statistics – 6(a)

308 Ms. Walsh presented the licensing statistics to the Commission from July 1, 2017 through
309 September 30, 2017. There are currently 3720 total active licensees and 3381 total
310 licensees with a 01/31/2018 expiration date. Six (6) new real estate offices opened and
311 114 licensees transferred; 72 new licenses were issued, 90 had an Inactive status; 40
312 lapsed due to non-compliance of post-licensing education.

313 Recovery Fund Balance Report – 6(b)

314 Ms. Walsh went over the Recovery Fund Balance report with the Commission. The Real
315 Estate Recovery Statement of Revenues, Expenditures and Fund Changes as of 06/30/17
316 indicated revenue of \$41,338, total expenditures for the year as \$119,361 with a net
317 change in fund balance of \$78,024. The beginning of the year balance was \$461,996 and
318 end of year balance of \$383,972. There were no claims filed during this period.

319

320 Consideration of Licensing Application- LCM – 6(c)

321

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

324

325 **RESOLVED to go into executive session per AS 44.62.310(c)(2),**
326 **subjects that tend to prejudice the reputation and character of any**
327 **person, provided that the person may request a public discussion.**
328 **Review application for licensure.**

329

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

331

332

333 Into executive session at 11:06 a.m.

334

335

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

338

339 **RESOLVED to come out of executive session.**

340

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

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Out of executive session at 11:11 a.m.

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

RESOLVED to accept the reinstatement of applicant, Luis M. CarlosMartinez.

All in favor; Motion passed.

Update on E & O insurance policy – 6(d)

Ms. Walsh updated the Commission on the master policy that is provided through Rice Insurance Services Co. (RISC). She shared an email sent to her and Ms. Burke on 12/05/2017 indicating that the Division of Insurance had accepted their insurance forms and rates.

Ms. McConnochie asked when the link for RISC would be on the Commission web site. Ms. Walsh stated very soon.

Ms. Harris explained to the members how staff had to modify the form for equivalent coverage because insurance providers were unwilling to fill out the existing form for real estate licensees. The change made was that real estate brokers are responsible and not insurance brokers.

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

RESOLVED accept the modified E & O insurance form and provide this to licensees who have E & O policies.

All in favor; Motion passed.

Mr. Pruhs asked if it is okay that an applicant fill out this form before they become a licensee? Ms. Harris stated it was okay.

Recessed for lunch at 11:20 a.m.

Reconvene after lunch at 12:30 p.m.

Agenda Item 7 – Education Report

Education Statistics – 7(a)

Ms. Harris presented the education statistics, as of 11/17/2017, to the Commission. She said there are currently 10 pre licensing courses, 16 broker upgrade courses, 347 elective continuing education courses, 68 designated continuing education courses, 69 post licensing education courses, 113 permanent instructors.

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CE Waiver Request – 7(b)

The Commission discussed the

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

RESOLVED to accept a continuing education (CE) waiver to applicant and extend his time period to complete CE to June 1, 2018.

**Mickel, McConnochie, Bushnell in favor; Pruhs recuses himself from vote.
Motion passed.**

Mr. Pruhs thanked the Commission members for this extension of time. If the Mr. McIntosh, RECS18201), needs more time the Commission will address it at that time.

Agenda Item 8 – Division Update

Sara Chambers, Deputy Director of CBPL, presented to the Commission the Division's REC revenue and expenditure report for July 1, through September 30, 2017 (1st quarter of FY18). Ms. Chambers explained the biennial revenue cycle in licensing professions. Currently the REC for the 1st quarter in FY18 has \$86,000 in surplus so it is not running in a deficit.

Mr. Bushnell asked about a Personal Services transferred, code number 1970, for ~\$19,000.

Ms. Chambers said she would look into it. She also explained to the Commission about the use of a place-holder figure for Indirect Expenses and that the number is based on the prior year's indirect expenses until the current fiscal year ends and then the actual amount is entered. Ms. Chambers went on to advise the Commission members that the cost allocations are in the Board Training Manual.

Mr. Bushnell asked if transaction fees (credit card fees) are net over revenue?

Ms. Chambers stated that the Commission has not been paying transaction fees because the General Fund has been covering these expenses but it may be that in the future all Boards & Commissions may have to pick up this fee.

Ms. Chambers also addressed the effective date, December 8, for the renewal fee regulation project which amounts to a reduction in fees of \$100.00 per licensee. Ms. Chambers spoke of technological improvements to allow for more online transactions and not just the biennial renewal and thereby cutting down on Front Desk Administration staff which all professional licenses share to some extent in this cost.

Ms. Chambers asked that Ms. Walsh email the Commission members a copy of the cost allocation for FY17 since it was not presented in the meeting material.

437 **Agenda Item 9 – Investigative Report**

438 **Statistical Report – 9(a)**

439 Investigator Doug Fell provided the Commission with investigation statistics from
440 September 27, 2017 through November 15, 2017 this included cases, complaints, and
441 intake matters. He said since the last report there have been 15 matters opened, 10
442 closed with 6 of those being intake matters, 17 matters remain on-going and under
443 investigation.

444

445 Mr. Bushnell asked if Mr. Fell saw any trends?

446

447 Mr. Fell indicated that there is a trend in property management issues.

448

449 **Probation Report – 9(b)**

450 Karina Medina presented the Probation report. Ms. Medina indicated that everyone on
451 probation has been compliant with their quarterly reporting requirements.

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454 **On a motion duly made by Mr. Mickel, seconded by Mr. Pruhs, it was,**

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456 **RESOLVED to adjourn the meeting.**

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458 **All in favor. Motion passed.**

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461 **Meeting adjourned at 2:09 p.m.**

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Prepared and submitted by:
Real Estate Commission Staff

Real Estate Commission
Meeting Minutes December
6, 2017
Page 10 of 10

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471
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Approved:

DocuSigned by:

Traci J. Barickman

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Traci J. Barickman, Chairperson
Alaska Real Estate Commission

5/22/2018 | 3:42 PM AKDT

Date: _____