

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 June 20, 2018
9

10 By authority of AS 08.01.070(2), and in compliance with the provisions of AS
11 44.62, Article 6, a scheduled meeting of the Real Estate Commission was held
12 June 20, 2018, at the State of Alaska Atwood Building, 550 W. 7th Avenue, Suite
13 1270, Anchorage, Alaska.
14

15 **Wednesday, June 20, 2018**

16 **Agenda Item I - Call to Order**

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

20 **Roll Call – I(a)**

21 **Members present:**

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

29 **Members Absent:**

30 Peggy Ann McConnochie, Broker, Broker at Large
31

32 **Staff Present:**

33 Sharon Walsh, Executive Administrator
34 Nancy Harris, Project Assistant
35 Greg Francois, Chief Investigator
36 Karina Medina, Probation Officer
37

38 **Guests Present:**

39 Errol Champion, Representative for AK Association of Realtors and Broker of
40 Coldwell Banker Race Realty, Juneau
41 Linda Sharp, Broker, Consulting Services, Anchorage
42 Jerry Royse, Broker and RE Education, Royse & Associates, Anchorage
43 Michael Droege, Associate Broker, Century 21 Realty Solutions – Midtown,
44 Anchorage
45 Lonnie Logan, Associate Broker, Herrington & Company, Anchorage
46 Joe Logan, Salesperson, Herrington & Company, Anchorage
47 Devon Thomas, Broker, Century 21 Realty Solutions, Wasilla
48 Shana Ackles, Associate Broker, Keller Williams Realty, AK Group
49 Cassandra Taggart, Broker, Real Property Management Last Frontier, Anchorage
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51 Deborah Brollini, Public attendee

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Chair Traci Barickman asked if any of the Real Estate Commission (REC) members had any conflicts of interest to disclose since the last meeting in March 2018. REC members did not have any disclosures at this time

Approval of Agenda- I(b)

Commission members reviewed the meeting agenda.

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

RESOLVED to approve the meeting agenda for June 20, 2018 as with changes.

Ms. Barickman asked to add an item (g) to New Business, EA Salary. She asked to take out item (c), Update REC Mission Statement, in New Business and replace it with Outside Licensee Practices.

All in favor; Motion passed with changes.

Agenda Item II - Approval of Meeting Minutes
March 21, 2018

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

RESOLVED to approve the March 21, 2018 meeting minutes.

All in favor; Motion passed.

Agenda Item III – Public Comment

Michael Droege – Associate Broker, Century 21 Realty Solutions,

Mr. Droege, Associate Broker from Century 21 Realty Solutions, presented to the Commission a USAA and the Navy Federal Rewards program that provides benefits to its members when they relocate to the state of Alaska. He said he had presented this to the Commission a number of years ago and they have never been able to give their customers this benefit due to a mechanical issue in how USAA wanted to reflect the benefits to the consumer. He presented a 2 page packet to the Commission that outlined how USAA would like to pass these members benefits on and the schedule on which they would receive those benefits. He said the difference to what they were proposing in the past and what they are proposing today is that instead of reducing it from the commission and paying it to the customer and then reducing the referral fees paid, they are proposing to identify these fees and benefits on the settlement statement and pay them directly to the customer at closing. He said he thinks that this would be

100 permissible just like we do with a lender giving a credit to a customer for closing
101 costs. Identify the member benefit on the settlement statement and pay them
102 directly on their schedule. He said he is proposing that we change the language in
103 paragraph 1 on the referral fee reduction program from “after closing” to “at
104 closing”. He said last year it effected about 80 families in the tune of \$150, 000 of
105 benefits that they did not received that they earned.

106
107 Ms. Barickman said that what Mr. Droege is proposing would require a statute
108 change. She said that was the conversation they had the last time this was
109 presented to the Commission. She said it is not a matter for the Commission to say
110 yes or no that he can do this. It literally has to be a statute change; there has to be
111 legislative approval to do this.

112
113 Ms. Cartledge said that the AAG came to the Commission and addressed why this
114 was not permissible by statute. She said she did not know if there was anything in
115 writing.

116
117 Ms. Barickman said that the statute says we cannot pay any part of our fee to
118 someone who is not licensed. Which has always stopped us from allowing them to
119 get compensated out of the brokerage; Nor can we pay someone knowing that it is
120 going to be paid to someone who is unlicensed.

121
122 Mr. Droege said that he has discussed this with several legislators that were willing
123 to sign off on legislation or help draft and co-sponsor legislation to make this
124 happen.

125
126 Mr. Droege stated that USAA, Navy Federal, Residential Mortgage are lenders that
127 give credit at closing to buyers on a regular basis. USAA has these benefits that
128 are generated through propagating these customers and in AK they cannot pay
129 that benefit out. He said it might be wrapped up in that Cartus is the overall arching
130 administrator/entity of these programs, they represent these lenders that provide
131 benefits to their customers and their customers do not receive them. He said that
132 they have entities that represent military clients moving in and out and pay benefits
133 illegally and they, Century 21 Realty Solutions, are trying to find a way to actually
134 do it with the blessing of the REC or appropriate party to make sure the members
135 do not get short changed.

136
137 Mr. Bushnell said that whatever the lenders are doing is not under the REC’s
138 purview. He said that is not coming out of the commission from the real estate
139 transaction, that is being paid out of the revenue they generate and fees they
140 charge. He said talk to AAR or a Legislator to sponsor legislation to change the
141 statute.

142
143 Ms. Cartledge said that once you have a support from a legislator, bring to the
144 Commission so that it can be vetted through this process as well. Not an up or
145 down but to ensure the REC does not have an issue with it and that it does
146 address the issue at hand.

147

148 Mr. Royse spoke to Mr. Droege's issue for clarification and said that he was the
149 President of AAR at the time and head of the task force that drafted this statute. It
150 was in a direct response to Costco coming in and the possibility of providing
151 kickbacks to their members through their membership program, so they drafted
152 this statute through legislation. He said that that in terms of referral fees and RELO
153 packages they are illegal kickbacks according to our statutes. He said that it is his
154 belief that not one person would not move to AK if they did not get their RELO
155 package. They are going to come up here anyway. RELO companies take money
156 out of the real estate industry and funnel it through a RELO program and give a
157 kickback to the consumer that is illegal based on our statutes. He said if a licensee
158 would do that they would lose their license.

159

160 Linda Sharp, Broker, Consulting Services

161 Linda Sharp, Broker of Consulting Services, addressed the Commission regarding
162 education hours required to renew a license in the last renewal period. Ms. Sharp
163 stated to the Commission that she has been licensed since 2008 and has always
164 taken her classes in person here in AK and in AZ where she is also holds a real
165 estate license. She said that for her taking her classes in person is better because
166 she believes she learns more even though it may be a bit more time consuming
167 than an online course. As of October 2017, she said she had logged in 22 renewal
168 hours for the licensing period. She renewed her license and it was accepted in
169 January 2018. She then was notified that she was being audited for continuing
170 education. She said she quickly responded to the audit notice and submitted her
171 continuing education (CE) certificates to the REC. However, the REC told her she
172 was not allowed to use one of her courses that was for Elective Continuing
173 Education (ECE) hours because it was a course that was for Designated
174 Continuing Education (DCE) hours. She stated that she took a Contract Law class
175 that was for DCE from Instructor A. She then took a course from Instructor B that
176 was also Contract Law but she said it was a completely different curriculum and
177 completely different teaching. Before she took the course with Instructor B she
178 spoke with their office and asked if she could use that course for ECE and they
179 said they would check and then call her back. They called her back and told her
180 yes that course should be fine for ECE. She said that she had 22 course hours
181 after she took the Contract Law class from Instructor B. She said she has had
182 dialogue with the REC regarding this issue. She said she received from the 2
183 instructors the course curriculum and the courses were 95% unique. The courses
184 were not at all the same. She said that not knowing how the Commission would
185 review this, she took an online course because there was not anything else offered
186 that was quick enough and she wanted to show that she complied. She sent that
187 class to the REC and they did approve it. Ms. Sharp said she is here to ask the
188 Commission that the 22 hours that she originally submitted be allowed.

189

190 Ms. Barickman asked for clarification of her request.

191

192 Ms. Sharp said that the Commission allow the DCE class for 3 hours to be 23
193 hours of ECE credit. She said she is already in compliance and she said she is
194 here so that she won't have to go to Juneau and pay the fine and whatever other
195 consequences that they want to give her for not having made the 22 hours. She

196 said she did it all in good faith. The intent of regulation is that everyone have
197 sufficient education to renew their license and a way to prove it through approved
198 education and instructors. She said the 3 hours of DCE and 3 hours of ECE
199 demonstrate that she took it in good faith.

200
201 Ms. Walsh said that licensee are required to complete 20 hours of continuing
202 education every two years. Ms. Sharp took additional hours which most of
203 licensees do.

204
205 Ms. Sharp said she would like the Commission to agree that when she submitted
206 her renewal approval in January to be renewed for this licensing period, that they
207 accept what she originally approved and that she does not go to Juneau and
208 submit herself to a fine for not meeting the education requirement.

209
210 Ms. Barickman stated for the record and Ms. Sharp that this is not a hearing and
211 not the appropriate place to discuss your request. She said the Commission can
212 listen to Ms. Sharp's public comment but this is not the time to take action on her
213 request.

214
215 Errol Champion, Broker, Coldwell Banker Race Realty, and AAR Liaison
216 Errol Champion liaison for the Alaska Association of Realtors (AAR) addressed the
217 Commission. He was here to give a report on what was happening and what the
218 AAR is working on per the REC's request.

219
220 Mr. Champion gave a quick history of HB279, the extension of the sunset date of
221 the REC, and said the bill was finally adopted by both houses in early May and it
222 has been transmitted to the Governor's office on June 6th and expected to be
223 signed by the Governor no later than July 4th. He said HB279 will become law and
224 with no opposition. He stated that AAR was glad that the REC asked for their help
225 to get this bill passed.

226
227 Mr. Champion spoke to the Commission about what was going on with the
228 Legislature because he said what they do effects all of us. He said there were 2
229 pieces of legislation with surplus Alaska railroad lands. They went back and forth
230 with these and generally the same type of stipulations or comments but there
231 would have had to be some blending as they emerge. However, the chair of
232 House, Labor & Commerce refused to hear it because he didn't like the direction it
233 was taking. So near the end of the session it got steamrolled and it was put into
234 HB119, the AIDEA Dividend bill, and it was passed. There were no hearings.

235
236 Mr. Champion said that the AAR was contacted in February by Representative
237 Grenn inquiring about AS 08.88.401, Prohibited Conduct, penalties. Mr. Grenn was
238 preparing to draft legislation that would allow kickbacks or rebates of real estate
239 commissions. AAR monitored this but nothing happened. No draft legislation was
240 generated. He said that the advocacy committee, the committee he chairs, first
241 heard about this and felt that we need to follow the law and if we are going to start
242 changing the law we need to follow the process and not just look the other way.
243 He said it is the end of the second session and all of the House Representatives

244 are up for re-election as well as about half of the Senate so all of the bills that are
245 on file, proposed or drafted have gone away. The Legislature will be starting fresh
246 next January.

247
248 Another piece of legislation AAR has been following was HB90. This was the bill
249 that blended the investigative costs for all professional licensees, all 73,000. The
250 way it was supposed to work is when license renewal came up we would have to
251 pay an equal amount rather than what was allotted to that profession/board. Again,
252 the chair of House, Labor & Commerce, saw that he was not getting the support
253 and he withdrew the bill the first part of April.

254
255 Another piece of legislation is SB64, uniformed environmental covenants. This bill
256 is out of DEC, who had testified to the Commission a bit ago. It is a good bill and is
257 currently on the Governor's desk. This bill would put environmental covenants on
258 a deed so that it follows the property so the future owners will know that there were
259 issues. It does not effect the quality of the deed but it is a matter of record.

260
261 The last thing Mr. Champion shared with the Commission is that last Friday the BC
262 government banned dual agencies. Real estate professionals can no longer
263 represent the buyer and the seller in any transactions. He said it seems to be a
264 ground swell building and a lot of us were wondering if dual agency was really in
265 the best interest of our customers but this is the step BC is taking and we will hear
266 more about this in the future.

267
268 Mr. Champion said to remember that elections are coming up and we need to start
269 thinking about those people that will be good for our industry and for what we are
270 trying to accomplish.

271
272 Ms. Barickman thanked Mr. Champion for his public comments.

273
274 Debra Brollini –Public Attendee
275 Ms. Brollini stated to the Commission that she opposed the REC Sunset bill. She
276 indicated she did not want to belabor the point but just wanted to state for the
277 record there was opposition to HB279.

278
279 Jerry Royse – Broker and Educator, Royse & Associates
280 Mr. Royse addressed the Commission about the abrogation of the common law of
281 agency. He also discussed credit unions and said it violates state law under AS
282 08.88.351. He said the statute needs to be changed to allow credit unions with
283 banks. He stated that contract law is taught different. Mr. Royse addressed the
284 issue regarding DCE hours being used for ECE hours. He said the DCE isn't
285 addressed in regulations so it's interpretive as to whether or not it can be used for
286 ECE hours.

287
288 No further public comments.

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Agenda Item IV – Old Business

292 Upgrade on REC Consumer Disclosure – revision- IV(a)

293 Mr. Pruhs presented the Commission members with the revised REC Consumer
294 Disclosure and Waiver of Right to be Represented forms that he and Ms.
295 McConnochie worked on to adding with information with regards to teams and
296 spaces to indicate individuals involved in the transaction.

297
298 Ms. Harris stated that she added the box that Ms. Burke had mentioned she liked
299 from the OR form from a previous meeting to the revised Consumer Disclosure
300 form and Ms. Barickman was concerned about including the date and time on the
301 forms, which were already on the draft.

302
303 The Commission members reviewed and discussed the revisions to the forms.

304
305 Ms. Barickman asked that the Commission members take some time to review the
306 revised forms, REC Consumer Disclosure and REC Waiver of Right to be
307 Represented, and email Mr. Pruhs and Ms. McConnochie their revisions, and they
308 both will go through them and put everyone's revisions down and they will
309 schedule a teleconference to go over forms in August.

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311
312 E & O Regulation revisions – VI (b)

313 The Commission reviewed and discussed the proposed E & O regulations.

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

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319 **RESOLVED to adopt the proposed regulation change 12 AAC**

320 **64.02.590(3).**

321 **Pruhs- in favor; Bushnell-in favor, Barickman-in favor; Cartledge-opposed;**
322 **Burke-opposed; Mickel-abstained. Motion passed.**

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325 Commission members discussed the proposed regulation 12 AAC 02.530 as
326 presented and reviewed the minimum standards and what should be under
327 equivalent coverage.

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330 Mr. Bushnell read regulation 12 AAC 02.530 as written.

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333 An insurer issuing equivalent coverage under AS 08.88.172(c)(2) shall hold a
334 certificate of authority issued under AS 21.09. All activities contemplated under AS
335 08.88.172 must be covered. The insurance must meet the minimum coverage
336 standards of 12 AAC 02.510.

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339 He said that the proposed regulation would be changed to read that it must meet
the minimum coverage standards for 12 AAC 02.510 (a)(1), (a)(2), (a)(3), (b),
(c)(1), and (c)(5), omitting (a) (4 – 7) and (c)(2-4).

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

RESOLVED to approve the regulation project 12 AAC 64.02.530, changing the current language to read... The insurance must meet the minimum coverage standards of 12 AAC 02.510, as proposed.

All in favor; Motion passed.

Commission recessed for Break at 11:23 a.m.

Commission reconvened from Break at 11:30 a.m.

Trust Accounts at Credit Unions (Dept. of Law AAG R Schmidt) – VI (d)

Mr. Robert Schmidt is an AAG with the Department of Law and he represents the Division of Banking and Securities, Alaska Post-Secondary Education, and the Real Estate Commission. He said he was asked by Ms. Walsh to speak to the Commission on a number of issues that they may have questions on. The first issue Mr. Schmidt spoke to the Commission on was client trust accounts. He said that trust accounts in this case is money that belongs to another person but is held by somebody who has duties to that money. Under long existing banking law, the Federal Deposit Insurance Company (FDIC) insured “bank” trust accounts even though the money did not belong to the account holder of the bank. The National Credit Union Administration (NCUA), however, would not insure a trust account with the money that did not belong to a member of the credit union. He said that was the case from the inception of credit unions until recently. Recently, credit unions statutes and regulations have been changed and now the National Credit Union Administration will insure a trust account even though the money doesn’t belong to a member of the credit union. All of which to say, when a real estate professional has a trust account and they receive the money that belongs to another person and they put it into a trust account maintained at a credit union the money is now insured. That removes the roadblock of why the statutes and regulations previously said you have to have a trust account (client trust account) in a bank. In adopting these changes, they were specifically referring to lawyers but they said the other equivalent professionals would also be covered by this rule change and they identified real estate professionals. Therefore, there is no reason to limit trust accounts to banks and should the REC be so inclined it may engage in rulemaking to change the trust account language to say “bank or credit union”.

Commission members addressed questions to Mr. Schmidt.

Ms. Burke asked with this change, are credit unions still insured by the NCUA or are they federally insured?

Mr. Schmidt said that credit unions are insured by the National Credit Union Administration (NCUA). He said they are a federal agency and they are insured very similarly to how banks are insured and now with this regulation change they are even closer to being insured the same way as banks are insured.

388

389 Ms. Cartledge asked Mr. Schmidt does this apply both to federally chartered as
390 well as state chartered credit unions?

391

392 Mr. Schmidt said there are state chartered banks but there is no such thing as a
393 state chartered credit union to his knowledge. He said like True North or Credit
394 Union 1, these fairly small credit unions are all federally chartered.

395

396 Ms. Cartledge said there is a provision under state law that allows for the creation
397 of a state credit union and she said she does not know whether or not they are in
398 existence.

399

400 Ms. Barickman asked Ms. Cartledge what impact would this have on this issue?

401

402 Mr. Schmidt said that assuming there was a solely state chartered credit union;
403 that does not have any federal charter, even state chartered banks, are insured by
404 FDIC. So to the extent that there is such a thing as a state chartered credit union,
405 as long as it is insured by the NCUA it is covered by this change.

406

407 Mr. Mickel said is this a change we can make or does it have to be done
408 legislatively?

409

410 Mr. Schmidt said it a regulation so the Commission can make that change. He said
411 that the Commission can make the change regardless of the existence or not of
412 state chartered credit union as long as it says federally insured bank or credit
413 union.

414

415 Mr. Schmidt said that this is being driven by a number of real estate professionals
416 saying they would like this changed in light of the federal law change that has
417 happened.

418

419 Mr. Bushnell asked about Mr. Schmidt's statement that credits unions are federally
420 insured but the statute AS 08.88.351 states "keep a separate trust account in a
421 bank". He said because it says "bank" how does that work as a credit union is not a
422 bank?

423

424 Mr. Schmidt said the statute and the regulation would need to be changed.

425

426 Ms. Walsh said the statute would need to be changed first and then the regulation.

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429

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

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**RESOLVED to direct the Executive Administrator to contact the
Division Director that the REC would like a statute change to
include credit union, reference 08.88.351(3).**

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436 Ms. Barickman said she is concerned if she deposits her client's money in a credit
437 union can she withdraw it 3 days later and it will not be considered anyone else's
438 money?
439

440 Mr. Schmidt said that the federal change he discussed is exactly that last point.
441 The reason why you couldn't do it before it because that money never belonged to
442 you, in the scenario you described, it was not insured because you were a member
443 of the credit union but your client was not. That is what has changed. The NCUA
444 now insures client trust accounts with the professional putting the money in does
445 not own the money and it is still withdrawable. He said it would work like a bank
446 trust account.
447

448 Ms. Cartledge asked that staff check the statute for references to the term "bank"
449 so there will be a change to all references.
450

451 Ms. Walsh said historically the REC has looked to the AAR for support because we
452 can get legislation passed. To go through the Division Director, she has to bring it
453 to the Governor's office and the Governor's office may take on that legislation or
454 not, and then it may or may not move forward. She said it may or may not get
455 picked up and that is why the REC goes through AAR.
456

457 Mr. Mickel abstained from the vote because his wife is a CEO of a credit union.
458

459 **4 members in favor; 1 member abstained; Motion passed**
460

461
462 Absentee Licensees – follow up from ARELLO – VI (c)
463 Commission members discuss the issue of absentee licensees.
464

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466 **On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it**
467 **was,**
468

469 **RESOLVED to go into executive session per AS 44.62.310(c)(2),**
470 **subjects that tend to prejudice the reputation and character of**
471 **any person, provided that the person may request a public**
472 **discussion thereof.**
473

474 **All in favor; Motion passed**
475

476 Into Executive Session at 11:54 a.m.
477

478 **On a motion duly made by Mr. Bushnell seconded by Mr. Mickel, it**
479 **was,**
480

481 **RESOLVED to move out of Executive Session.**
482

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

484

485 Out of Executive Session at 12:42 a.m.

486

487 The Commission made no decisions regarding absentee licensees.

488

489 Commission recessed for Lunch at 12:43 p.m.

490 Commission reconvened from Break at 1:30 p.m.

491

492 Trust Accounts at Credit Unions (Dept. of Law AAG R Schmidt) – VI (d) – cont'd

493 Ms. Barickman said just for some clean up regarding credit unions in their earlier
494 discussion. She said she did some research regarding trust accounts and she
495 found that the only statute that refers to a bank is AS 08.88.351(a)(3) and some
496 regulations.

497

498

499 **Agenda Item VIII – Division Update**

500 Ms. Dumas presented the Schedule of Revenues and Expenditures Report for 3rd

501 FY18 to the Commission. She said this report is from FY12 through 3rd Qtr FY18.

502 She stated that for 3rd Qtr FY18 there was a licensing revenue of 689,660,

503 expenditures for personal services was 109,449, travel 12,152, contractual 6,619

504 and supplies at 1,213 for a total direct expenditures of 129,433. Indirect

505 expenditures were at 126,870 with total expenditures at 256,303. Ms. Dumas said

506 there is a total surplus at 956,806 which will get the Commission through the non-

507 renewal year and then next will be a fee analysis to see if there will be a decrease

508 in fees or if they will stay the same.

509

510 Mr. Pruhs asked Ms. Dumas who does the fee analysis?

511

512 Ms. Dumas said the fee analysis is done by the Director, herself and an

513 accountant. They work together on it.

514

515 The Commission had no more questions and Ms. Barickman thanked Ms. Dumas

516 for her report.

517

518

519 **Agenda Item VI– Investigative Report**

520 Probation Report – VI (b)

521 Karina Medina presented the Probation report. Ms. Medina indicated that there

522 were no changes from the last report. Everyone on probation has been in

523 compliance with their reporting requirements. Ms. Medina indicated that Jeffrey

524 McGrath has yet to affiliate with a Broker.

525

526 Statistical Report –VI (a)

527 Chief Investigator, Greg Francois provided the Commission with an update on the

528 REC investigator Doug Fell. He said that Mr. Fell has left the Division as of June

529 15, 2018. He will be taking over investigations for the REC until they hire a new

530 investigator. He said he has submitted a request for hire for two investigator III

531 positions, one of which will be supporting this Commission. He said he will be

532 sending 9 of our investigators to a national certified investigator school here in
533 Anchorage. He said he wanted to get this person on board beforehand so that they
534 have the basic knowledge of investigations on top of the experience that they
535 already have. That will happen in late August. He said he will hopefully have
536 someone in place by that time.

537

538 He said he still is in the process of reviewing open cases and also reviewing real
539 estate statutes and regulations. He said that when he calls a Commission member
540 for a review, please let him know your opinion and help him with the interpretation
541 of the statutes and regulations. He said he is willing to learn.

542

543 Mr. Francois provided the Commission with investigation statistics from March 3,
544 2018 through June 5, 2018 this includes cases, complaints, and intake matters.
545 Since the last report there have been 12 matters opened, 9 closed with 6 of those
546 being intake matters, total of 29 matters remain on-going, under investigation or
547 litigation. He said that 8 of these cases will be presented to the Commission today.

548

549 Ms. Barickman thanked Mr. Francois for stepping in and working hard for the
550 Commission. She said it is much appreciated.

551

552 The Commission moved into executive session to discuss cases brought forward
553 from the Chief Investigator Francois.

554

555 **On a motion duly made by Ms. Cartledge, seconded by Mr. Mickel, it**
556 **was,**

557

558 **RESOLVED to go into executive session per AS 44.62.310(c)(2),**
559 **subjects that tend to prejudice the reputation and character of**
560 **any person, provided that the person may request a public**
561 **discussion.**

562

563 **All in favor; Motion passed**

564

565 Into Executive Session at 1:54 p.m.

566

567 **On a motion duly made by Mr. Bushnell seconded by Mr. Mickel, it**
568 **was,**

569

570 **RESOLVED to move out of executive session.**

571

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

573

574 Out of Executive Session at 3:04 p.m.

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577 Commission recessed for Break at 3:04 p.m.

578 Commission reconvened from Break at 3:11 p.m.

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Agenda Item VI– Investigative Report –cont’d

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

RESOLVED to move to accept the consent agreement in case #2015-00675.

All in favor; Motion passed.

Motion carries in case #2015-00675 in the matter of Mark Soquet and the acceptance of his Consent Agreement and proposed decision and order.

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

RESOLVED to accept the license surrender in cases #2015-002203 and 2017-000288.

Commission member Bushnell recused himself from the vote because he reviewed the case.

Commission member Barickman recused herself from the vote because she consulted on the case.

4 members in favor; 2 members recused. Motion passed.

The Commission accepted cases #2015-002203 and 2017-000288 in the matter of Quake Haydon in the order to surrender license.

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

RESOLVED to refer back to Investigations cases #2016-0001444, 2016-001452, 2017-001035, 2017-001192, and 2018-000364.

Commission member Pruhs recused himself from the vote because he reviewed the cases.

5 votes in favor, 1 vote recused; Motion passed.

628

629 **Agenda Item IV– Old Business**

630 **Guidelines for Using Consumer Disclosure – IV (e)**

631 Mr. Bushnell stated that with the current proposed changes to the Consumer
632 Disclosure, no guidelines have been developed to present to the Commission for
633 their consideration at this time.

634

635 **Update on Video of Consumer Disclosure by Investigator – IV (e)**

636 Mr. Bushnell stated that the idea of the video was to create a class for instruction
637 for the consumer disclosure and then later the investigator (Mr. Paff) was added to
638 the project to go out and speak with people regarding the disclosure (this was what
639 the previous motion indicated).

640

641 Mr. Bushnell said he believed that this class should be done in concert with the
642 instructors that we have in the state of Alaska that can create a curriculum based
643 on the disclosure so that there is uniformity. He said a couple classes will need to
644 be given so that we can say this is the way it will be taught for everyone, for
645 consistency. We need people to weigh in on how this course will taught because
646 instructors will teach this each course (Consumer Disclosure) differently.

647

648 Ms. Barickman said that if we are going to change the Consumer Disclosure we
649 may want to focus more on representation and what the law says. What are the
650 options? What is a designated licensee? What is specific assistance? It is not
651 going to be done through investigations nor should it be.

652

653 Ms. Barickman asked if one of the Commission members would like to take
654 up/organize this project and have something, at least outline, at the next meeting in
655 September for the Commission to review and discuss.

656

657 Mr. Pruhs said he would work on this project and have something for the next
658 regularly scheduled meeting in September. Ms. Barickman said she would be
659 available to give input.

660

661 **SB 37 –Executive Administrator’s Salary, IV (g)**

662 Ms. Barickman said SB37 created a position, Executive Administrator, for the
663 Pharmacy board and that position was given a pay range of 23. Ms. Barickman
664 asked Ms. Walsh what her pay range was and it was far below the range 23. She
665 said that with some research she found that a number of years ago there was
666 motion made in a previous Commission meeting asking AAR to assist in legislation
667 to increase Ms. Walsh’s position to a range 23. It was not done. The economy was
668 a little different back then.

669

670 Ms. Barickman said she would like support from this Commission to push this
671 forward to AAR or someone else to sponsor a bill and get it to our Legislature to
672 upgrade Ms. Walsh’s position to a range 23.

673

674 Ms. Cartledge said she would like to see numbers. She said that the state has
675 been struggling for a number of years and is under scrutiny and she believes we

676 need to see what the numbers are. What will the salary be plus benefits? We need
677 to fully support and show what it is and that we did our due diligence.

678
679 Ms. Barickman asked that staff compile a report with all the data and numbers
680 requested by members to be presented to the Commission at the September
681 meeting for review, discussion and to make a motion.

682
683

684 **Agenda Item V– New Business**

685 Recovery Fund Claims, 1) K. Chatiski, 2) B.Breen – V (a)

686 Commission members reviewed the K Chatiski recovery fund claim.

687
688

689 **On a motion duly made by Mr. Pruhs, seconded by Ms. Burke, it was,**

690
691

**RESOLVED to move to approve \$9,354.12 from the Recovery
Fund for the improper financial actions by Jim Crawford.**

692
693

694 Commission members discussed the K Chatiski recovery fund claim as presented.

695
696

696 Mr. Pruhs withdrew his motion, Ms. Burke concurred.

697
698

699 **On a motion duly made by Mr. Bushnell, seconded by Mr. Mickel, it
700 was,**

701
702

**RESOLVED that the Executive Administrator take both of these
Recovery Fund cases (K. Chatiski and B Breen) to the AG to
ensure they qualify under pay out of the Recovery Fund.**

703
704

705
706

Ms. Burke opposed the motion. 4 members in favor. Motion passed.

707
708

708 Ms. Barickman said that the Commissions members should be prepared to vote on
709 these cases at the August teleconference.

710
711

712 FY19 Goals & Objectives – V (b)

713 Ms. Barickman asked Commission members to be thinking about what they would
714 like this board to accomplish within the next year so that they can set their goals
715 and objectives at the September meeting.

716
717

717 **Agenda Item VII– Education Report**

718 Licensing and Education Statistics – VII (a)

719 Ms. Harris presented the licensing report to the Commission. She stated that
720 between January 1, 2018 and March 31, 2018 there were 79 new licensees, 2568
721 active licensees with an expiration date of January 31, 2020, 3 upgrades from
722 salesperson to associate broker, 4 upgrades from salesperson to broker, 3

723 licenses issued by endorsement- 1 salespersons and 2 associate broker and 10
724 new offices.

725

726 Ms. Harris asked the Commission what they would like as far as the licensing
727 statistics. Is the current license statistics presented fine or would they like to see
728 changes?

729

730 Ms. Barickman asked the Commission members that if they wanted to see
731 changes to the licensing statistics to email Ms. Harris so that she can make those
732 changes.

733

734 Education Statistics

735 Ms. Harris presented the Education Report to the Commission. She stated there
736 were currently 7 pre licensing courses, 3 broker upgrade courses, 232 elective
737 courses, 8 designated courses and 51 post licensing courses. There were 118
738 permanent instructors and one new instructor out of Tennessee.

739

740 Education Certificate issue PAM – VII (b)

741 Ms. Harris stated that all real estate courses are renewed at the same time as real
742 estate licenses; both expire January 31 of even numbered years.

743

744 One of our course sponsors, Ms. McConnochie, forgot to renew some of her
745 courses and taught a number of those courses for individuals that took these
746 courses for their education requirements.

747

748 Ms. Harris asked the Commission for approval of the certificates for the licensees
749 who completed Ms. McConnochie's courses, in good faith, that were not approved
750 at the time so the licensees can move forward.

751

752

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

754

755 **RESOLVED that the Commission approve those**
756 **course/certificates.**

757

758 Ms. Barickman said there is a record of approved courses but licensees rely on the
759 trainer if a course is approved.

760

761 Mr. Mickel withdrew his motion on the table, Mr. Pruhs concurred.

762

763

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

765

766 **RESOLVED that the credits that were taken that had lapsed be**
767 **approved/accounted toward the student's education.**

768

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

770

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

772

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776

777

RESOLVED that the Chairman of the REC (Executive Administrator) send a letter of reprimand to PeggyAnn McConnochie in regards to the items the Commission addressed and no further action be taken.

778

All in favor; Motion passed.

779

780

781 DCE Guidelines – VII (c)

782

783

784

785

Ms. Harris stated that staff is looking for guidelines for the DCE topics the Commission approved for the 2018-2020 licensing period to help instructors and sponsors develop their courses.

786

787

788

Commission members reviewed and discussed the DCE topics and the guidelines submitted.

789

790

791

Ms. Barickman asked that the Commission members to provide REC staff their input/suggestions regarding the DCE guidelines.

792

793

794

795

Mr. Bushnell asked that REC staff email the Commission members a list of education topics.

796

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

797

798

799

800

801

RESOLVED that Ms. Walsh interface with individual Commission members to complete their DCE guidelines for 2018-2020 that will be voted on at the August teleconference.

802

All in favor; Motion passed.

803

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807

Mr. Mickel asked that Ms. Sharp's education issue be settled before the end of the meeting.

808

809

810

Ms. Barickman said there was nothing to be settled at this time. There is no action in front of the Commission at this time.

811

812

Ms. Cartledge said that Ms. Sharp was concerned about a consent agreement?

813

814

815

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817

818

Ms. Walsh stated that it is typical of someone that is audited and they haven't provided the REC with all of their CE credits, to include DCE and ECE. REC staff send that information (short CE hours or no response to the audit) to the paralegal in Juneau, and they work with the licensee regarding those issues in the form of a consent agreement.

819 Ms. Cartledge asked if there is a process ongoing with regards to Ms. Sharp. The
820 Commission received the dialogue through emails between Ms. Harris and Ms.
821 Sharp and it sounds like Ms. Sharp has made up the missing credit(s).

822
823 Ms. Barickman said that it is in process and it is not for the Commission to hear at
824 this time. She said she made it clear when Ms. Sharp gave her public comment
825 that this is not a hearing and the REC cannot hear this issue at this time.

826
827 Mr. Bushnell said that what is interesting about that is that he brought this issue up
828 to the Commission last fall and asked this question, if DCE hours can be used for
829 ECE hours, because when you have these different DCE classes they are different
830 classes even though they fall under the same topic. Mr. Bushnell said that these
831 classes should be allowed for credit and the Commission said no.

832
833 Ms. Walsh said that is what staff based their decision on when Ms. Sharp turned in
834 her DCE for ECE credit. REC staff said the Commission does not allow for this so
835 you are short one hour of ECE. Ms. Sharp did complete her 1 ECE credit.

836
837 Ms. Barickman said there is no action to address at this time.

838
839 **Agenda Item VIII– Executive Administrator Report**

840 **Recovery Fund Financials – VIII (a)**

841 Ms. Walsh said that the Recovery Fund report is the same as the March 2018
842 meeting. No changes.

843
844 **ARELLO Conference, Sept. 26 -30, 2018 – VIII (b)**

845 Ms. Walsh said the ARELLO conference is coming up in St. Louis, MO on
846 September 26 – 30, 2018 which is the same date as the September Commission
847 meeting, September 26, 2018. She said the date of the September meeting will
848 need to be changed. The Commission will need to approve either two staff
849 members to attend the ARELLO conference or just the Executive Administrator.
850 She also reminded the Commission that the Investigator Workshop is coming up
851 October 23-25, 2018 in San Antonio, TX if they would like the investigator to
852 attend.

853
854

855 **On a motion duly made by Ms. Burke, seconded by Mr. Mickel, it was,**

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857

858 **RESOLVED to send both Sharon Walsh and Nancy Harris to the**
859 **ARELLO Annual Conference in September 26-30, 2018 in St.**
860 **Louis, MO.**

861
862

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

864
865

866 The Commission members discussed the new date for the September meeting.

866 The Commission members decided the new meeting date is Tuesday, September
867 18, 2018. Commission members asked staff to send all Commission members a
868 meeting invite so they can save the date before their calendars book up.
869

870 Mr. Pruhs asked that staff pass on to travel not use Extended Stay, on 8th and C
871 Street, for lodging because of the very bad service. Two other Commission
872 members that also stayed there agreed.
873

874 **On a motion duly made by Mr. Pruhs, seconded by Mr. Bushnell, it**
875 **was,**
876

877 **RESOLVED to adjourn the meeting.**
878
879

880 The Commission members decided not to send an investigator to the ARELLO
881 investigator workshop in October 2018.
882

883 The Commission members scheduled the teleconference for Tuesday, August 14,
884 2018 at 12:05 p.m.
885

886
887 **All in favor. Motion passed.**
888
889

890 Meeting adjourned at 4:42 p.m. The next meeting will be held September 18, 2018
891 in Anchorage.
892
893

894 Prepared and submitted by:
895 Real Estate Commission Staff
896

897 Approved:
898

899 DocuSigned by:
900 *Traci J. Barickman*
901 Traci J. Barickman, Chairperson
902 Alaska Real Estate Commission
903

904 Date: 9/19/2018 | 3:15 PM AKDT