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

REAL ESTATE COMMISSION
MEETING MINUTES

January 16, 2019

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

January 16, 2019
Agenda Item 1 - Call to Order
Chairperson Traci Barickman called the meeting to order at 9:00 a.m. at which time a quorum was established.

Roll Call – 1(a)
Members present:
Guy Mickel, Broker, 1st Judicial District,
Peggy Ann McConnochie, Broker, Broker at Large, via teleconference
Marianne Burke, Public Member
Eric Bushnell, Broker at Large
David Pruhs, Broker, 4th Judicial District
Traci J. Barickman, Broker, 3rd Judicial District, REC Chairperson
Cindy Cartledge, Public Member

Staff Present:
Sharon Walsh, Executive Administrator
Nancy Harris, Project Assistant
Melissa Dumas, Administrative Officer, JNU Division of CBPL, via teleconference
Greg Francois, Chief Investigator
Shyla Consalo, Investigator for REC

Guests Present:
Jerry Royse, Broker, Royse & Associates, RE Educator, Anchorage
Anita Bates, Associate Broker, Dwell Realty, RE Educator, Anchorage
Lonnie Logan, Associate Broker, Herrington and Company, Anchorage
Deborah Brollini, Public attendee, Anchorage
Linda Sharp, Broker, Consulting Services, Anchorage
Kassandra Taggart, Broker, Real Property Management Last Frontier, RE Educator, Anchorage
Terry Bryan, First American Title, RE Educator,
Howard Hancock, First American Title, RE Educator
Becky Brewer, Associate Broker, RE/MAX Dynamic Properties, RE Educator, Anchorage
Via Teleconference:
Errol Champion, Legislation Liaison for AK Association of Realtors and Broker of Coldwell Banker Race Realty, Juneau
Barbara Barnes, Chief of Staff for Rep. Tammie Wilson

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

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

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

There were no other disclosures.

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

Approval of Agenda-1(b)
Commission members reviewed the meeting agenda.

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

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

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

Move agenda item 5(a) COA to 5(c).
In place of 5(a), Commission will discuss Handling of Security Deposits Letter.
Move Consent Agreements down to item 9(c), under Investigations.
Under agenda item 6, Old Business, add two items: (e) Application Review, and (f) Credit Union statute change AS 08.88.351.

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

All in favor; Motion passed.

Agenda Item 2 - Approval of Meeting Minutes
August 14, 2018, September 18, 2018 and October 29, 2018 meeting minutes.
On a motion duly made by Mr. Bushnell, seconded by Mr. Pruhs, it was, RESOLVED to approve the August 14, 2018, September 18, 2018 and October 29, 2019 meeting minutes as amended.

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

All in favor; Motion passed.

Agenda Item 3 – Public Comment
Errol Champion, Broker- Coldwell Banker Race Realty, and Alaska Association of Realtors (AAR) Liaison
Errol Champion, liaison for the AAR, presented his report to the Commission regarding upcoming legislation. Mr. Champion reported that they are working on the statute change to AS 08.88.351(3), by adding the word “credit union” as requested by the REC. He said that the legislation is already drafted but the House is not organized and there is no Chair for House Labor & Commerce to move on this. He said that once the House is organized, they can begin to move forward. He said AAR believed it would be better if this proposed draft legislation was sponsored through a committee bill rather than an individual representative.

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

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

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

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

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

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

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

Jerry Royse, Broker, RE Educator, Royse and Associates
Jerry Royse, Broker for Royse and Associates and real estate educator, addressed the Commission regarding his dissatisfaction with the CE audit process and what Ms. Sharp went through during that process. He said he has never had a problem with a DCE class being approved for ECE credit. He also believed that the law allowed a licensee to receive ECE credit for extra DCE class they completed and
this was an incorrect interpretation of the law and inconsistent with what has been
done for the past 25 years.

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

Commission recessed for Break at 10:23 a.m.
Commission reconvened from Break at 10:30 a.m.

**Agenda Item 4 – Old Business**

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

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

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

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

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

Regulation Changes 12 AAC 02.530 - 4(b)

Ms. Burke spoke to the Commission regarding E & O Insurance. Ms. Burke gave
the Commission a brief history of the REC’s implementation of the new E & O
requirement that all licensees must have had by January 1, 2018 She went over
what the state policy requires and spoke to what the proposed regulation will
remove. She said it would remove, tail coverage, the ability for a licensee to buy
additional coverage, no requirement for the equivalent coverage to be “individual
and specific to licensee, no requirement for prior acts of coverage and that the
insurer maintain a certificate of authority issued under AS 21.09, an insurance
license.
Ms. Barickman thanked Ms. Burke for all her hard work and expertise with all she has done to help with E & O Insurance for the REC.

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

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

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

All in favor; Motion passed.

**12 AAC 64.990**

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

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

All in favor; Motion passed.

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

Commission reconvened at 12:46 p.m.

**Revisit 12 AAC 64.440 add: (g) – 4(d)**

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

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

\[\text{RESOLVED to accept the proposed changes, submitted by Ms. McConnochie, to regulation 12 AAC 64.440, amending (f) to: “An instructor approval expires on January 31 of every odd-numbered year. An applicant for renewal of an instructor approval must submit to the department:” adding after (3)(c), “and; (4) an applicant for approval as an instructor must show successful completion of an instructor training workshop}\]
provided by an approved national entity as listed below in (d) of this section or the commission prior to their initial approval as an instructor or for renewal as an instructor."

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

Commission members voted on the original motion as amended.
All in favor. Motion passed.

Agenda Item 5 – New Business
Security Deposit Issues – K Taggart – 5(a)
Ms. Kassandra Taggart is a broker for Real Property Management-Last Frontier and she addressed the Commission regarding the handling of security deposits. She said the issue of recording security deposits is escalating, and either it needs to be clarified or the regulations need to be updated. She presented two scenarios involving mishandling of security deposits to the Commission for their consideration.

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

Agenda Item 7 – Division Update
Ms. Dumas introduced herself to the Commission and presented the Schedule of Revenues and Expenditures Report for 4th Qtr FY18. She reported that for 4th Qtr FY18 there was licensing revenue of 766,875, expenditures for personal services was 166,498, travel 15,632, contractual 14,329 and supplies at 649, for a total direct expenditure of 197,108. Indirect expenditures were at 180,508 with total expenditures at 377,616. Ms. Dumas said there is a total surplus of 389,259. A beginning cumulative surplus was 523,449 with an ending cumulative surplus of 912,708.

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

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

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

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

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

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

Set Future REC Meeting dates - 5(d)

The Commission set the meeting dates for 2019.

March 27
June 5
September 25
December 11

All meetings will take place in Anchorage.

Commission recessed for Break at 2:10 a.m.
Commission reconvened from Break at 2:15 a.m.

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

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

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

The Commission said this should be given to investigations.

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

**Agenda Item 9– Investigative Report**

Statistics Report and Probation Report – 9(a) and (b)
REC Investigator, Shyla Consalo, presented the investigation statistics for the reporting period of 08/31/18 through 11/19/18. There are 4 opened matters, 13 matters were closed and there are 28 matters under active investigation.

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

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

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

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

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

All in favor; Motion passed.

Into Executive session at 2:31 p.m.

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

RESOLVED to come out of executive session.

All in favor; Motion passed.

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

Commission recessed for Break at 3:45 p.m.
Commission reconvened from Break at 3:50 p.m.
On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it was,

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

All in favor; Motion passed.

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

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

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

All in favor; Motion passed.

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

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

RESOLVED to approve application case #2019-000034.

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

RESOLVED to reconsider the previous motion.

All in favor; Motion passed.

The vote on the original motion regarding case #2019-000034.

Mr. Bushnell-no, Ms. McConnochie voted no; Mr. Pruhs, Mr. Mickel and Ms. Burke voted yes.

Motion to accept the license application case #2019-000034 failed.
On a motion duly made by Ms. Cartledge, seconded by Mr. Pruhs, it was,

RESOLVED to accept the licensing application for case #2018-000828.

Mr. Bushnell recused himself from the vote. Ms. McConnachie voted no; Ms. Cartledge, Ms. Burke, Mr. Mickel and Mr. Pruhs voted yes.

4 members in favor, 1 member opposed, 1 member recused.
Motion passed.

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

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

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

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

Agenda Item 6– Executive Administrator Report
Licensing Statistics Report – 6(a)
The Commission members reviewed the December 5, 2018 licensing statistics report. Ms. Walsh asked if the Commission members had any questions regarding the report.

The Commission members had no questions.

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

Ms. Walsh said that she did attend the ARELLO conference in September and that Ms. Harris’ travel was not approved so she was not able to attend.
Ms. Walsh gave the Commission a quick update on her attendance at the ARELLO conference. She said the big issues were: teams, super boards (one board for all professions), license portability (ability of licensee to take license state to state), and TX now uses ZOOM for all their meetings and licensees can listen to meeting online.

**Recovery Fund Financial Report – 6 (b)**
Ms. Walsh and the Commission members reviewed the Recovery Fund report for the period ending 6/30/2018. There were no questions.

**Update on Fairbanks Broker – 6(c)**
Ms. Walsh gave an update on the broker from Fairbanks who was out of office due to a medical issue. Ms. Walsh stated that the broker had transferred all her clients, and her property management issues were complete. She also said she is on the mend and will hopefully be back in Fairbanks soon.

**Agenda Item 8– Education Report**

**Education Statistics – 8(a)**
Ms. Harris presented the December 5, 2018 Education Report to the Commission. She said there were 83 currently approved courses, 27 permanent instructors with 3 of those are new instructors.

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

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

Prepared and submitted by:
Real Estate Commission Staff

Approved:

REC Chairperson
Alaska Real Estate Commission

Date: ______________________