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2 STATE OF ALASKA
3 DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT
4 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
5

6 REAL ESTATE COMMISSION
7 MEETING MINUTES
8

9 December 14, 2023
10

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12 By the authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62,
13 Article 6, a scheduled meeting of the Real Estate Commission was held December 14,
14 2023, at 550 W 7th Avenue, Ste 1550, Anchorage, AK in- person and via Zoom.
15

16 **Thursday, December 14, 2023**

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

18 Chairperson Cheryl Markwood called the meeting to order at 9:06 a.m., at which time a
19 quorum was established.
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21 Agenda Item 1(a) – Roll Call

22 Members Present via Zoom

23 Cheryl Markwood, Broker, Broker at Large, Chairperson
24 Traci Heaton, Associate Broker, 1st Judicial District
25 Devon Doran, Broker, 3rd Judicial District
26 Elizabeth Schok, Associate Broker, 4th Judicial District
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28 Members Absent:

29 Chad Stigen, Associate Broker, Broker at Large
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31 Staff Present:

32 Nancy Harris, Executive Administrator, REC
33 Kerry Givens, Project Assistant, REC
34 Anna Gabriel, Investigator, REC/APR, Anchorage
35 Marilyn Zimmerman, Paralegal, CBPL, Juneau
36 Julienne Kim, Paralegal, CBPL, Anchorage
37 Melissa Dumas, Administrative Officer, CBPL, Juneau
38 Alison Osborne, Regulation Specialist, CBPL, Juneau
39

40 Guests Present via Zoom:

41 Errol Champion, Liaison for AAR, and Broker of Coldwell Banker Race Realty, Juneau
42 Elise Buchholz, Associate Broker, and Educator, Jack White Real Estate, Wasilla
43 Gabe Stephen, Broker, Jack White Real Estate, Anchorage
44 Jerry Lymburner, Broker, Powered by Lymburner, Fairbanks
45 Paddy Coan, Associate Broker, Keller Williams Realty, Alaska Group, Anchorage
46 Maude Morse, Real Estate Education Sponsor and Instructor, AK Housing Finance
47 Corporation, Anchorage
48 Margie Hudok, Broker, Coldwell Banker Endeavor Realty, Anchorage
49 Susette, no last name given, Property Management
50

51 Agenda Item 1(b) - Approval of 12/14 Agenda

52 Commission members reviewed the agenda as presented.
53

54 Ms. Markwood said that tab 5, Division update, is changed from 10:00 am to 1:00 pm.
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On a motion made by Doran, seconded by Schok, it was,

Resolved to approve the December 14, 2023, meeting agenda as amended.

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57

No objections. Motion passed.

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Statements of Conflicts of Interest/Ethics Violations– 1(c)

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There were no conflicts of interest statements or ethics violations to report.

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Agenda Item 2 – Public Comments

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Errol Champion, Broker, Chair of the Legislature and Real Estate Commission Committee for AK Realtors gave the Commission an update on 2 bills filed with the legislature last session. HB134, this bill deals with disclosure of transaction prices and the ultimate implementation of a transfer fee tax, sales tax, or income tax. They are optimistic that this bill will see action this coming session. There have been 14 House Members co-sign on as sponsor and a companion bill has been introduced. HB184, this bill establishes a requirement that the department of Commerce provide a registration of short-term rentals. He said they don't really have a position one way or the other, but they do think that it could be become a challenge, for property managers. It is not clear what the fines or the penalties will be and there's no standard criteria, though there's a lot of work to be done. Mr. Champion said it is interesting that the City of Juneau has already adopted an ordinance requiring registration and the City of Homer has one in a draft stage. He said this could have some impact on property management.

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Mr. Champion's last issue was there was still some concern that there are still 2 open positions on the Real Estate Commission. The Commission is continuing to work with only 5 members. He said he doesn't know what role the Alaska realtors could provide but if there's anything their group could do to help expedite the process, please let them know. He said they have talked about it all their meetings, but it just doesn't seem to produce a candidate or 2 to be nominated.

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Paddy Coan, Associate Broker with Keller Williams Realty AK Group, addressed the Commission regarding mobile home trailer sales, not on land, using real estate sales contracts. She said this is happening throughout the state. She has some concerns because licensees are just not getting it by not understanding the law or just disregarding it. She said that maybe a simple solution would be education by doing some best practices. She said this would be a good one to put out to our licensees. She said she would be happy to share what information she had gathered with staff. Ms. Coan said mobile home sales are not covered under real estate E & O Insurance policies because it is not real estate.

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Ms. Harris read a comment on the record for the Commission that was received by email from Eric Glatt a member of the public. Mr. Glatt asked the Commission if they tend to address, either at this meeting or a future meeting, the implications of the October 31 "Sitzer/Burnett" jury verdict in Federal District court in Missouri?

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Agenda Item 3 – Review of Meeting Minutes

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Agenda Item 3(a) –(c) September 7, September 28, November 14, 2023

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On a motion made by Heaton, seconded by Doran, it was,

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Resolved to approve the September 7th, September 28th, and November 14, 2023, meeting minutes as presented.

No objections. Motion passed.

Agenda Item 4 – Investigative Report

Statistical Report – 4(a)

Ms. Gabriel, Investigator for RE, presented the investigation statistical report to the Commission. Ms. Gabirel said for the reporting period of August 23, 2023, through November 28, 2023. She stated there are 49 cases opened, and 16 cases were closed from the last report.

License Actions –

Consent Agreement, Case No. 200-001067 – 4(b)(i)

Ms. Markwood asked if any Commission member had a conflict of interest with case 2022-001067.

Ms. Heaton said she had a conflict of interest as the reviewing member and requested to be recused from case 2022-001067.

Ms. Markwood recused Ms. Heaton from case no. 2022-001067.

Ms. Markwood stated that Ms. Zimmerman was present at the meeting.

Commission members went into executive session to discuss a license action from agenda item 4(b)(i), Consent Agreement, Case # 2022-001067.

On a motion duly made by Heaton, seconded by Doran, it was,

Resolved to go into executive session in accordance with the provisions of AK Statute 44.62.310(c), for the purpose of discussing subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.

Roll call vote: Doran – yes, Heaton-yes; Schok -yes; Stigen – absent, and Markwood – yes.

Commission went into executive session at 9:26 am.

Out of executive session at 9:44 am

On a motion duly made by Doran, seconded by Schok, it was,

Resolved to adopt the Consent Agreement for Case No. 2022-001067.

Roll call vote: Doran – yes, Schok -yes; Stigen – absent, and Markwood – yes, Heaton- recused and abstained from voting.

154 *The Commission adopted the Consent Agreement for Case No. 2022-001067 with regards*
155 *to Real Estate Broker Edwin Osowski.*

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158 Order of Default, Case No.2022-000981 – 4(b)(ii)

159 Ms. Markwood asked if any Commission member had a conflict of interest with case 2022-
160 000981.

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162 Ms. Heaton said she had a conflict of interest and requested to be recused from case
163 2022-000981.

164
165 Ms. Markwood recused Ms. Heaton from case no. 2022-000981.

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167 Commission members went into executive session to discuss a license action from
168 agenda item 4(b)(i), Consent Agreement, Case # 2022-000981.

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171 **On a motion duly made by Schok, seconded by Doran, it was,**

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173 **Resolved to go into executive session in accordance with the**
174 **provisions of AK Statute 44.62.310(c), for the purpose of discussing**
175 **subjects that tend to prejudice the reputation and character of any**
176 **person, provided the person may request a public discussion.**

177

178 Roll call vote: Doran – yes, Heaton-yes; Schok -yes; Stigen – absent, and
179 Markwood – yes.

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181 *Commission went into executive session at 9:48 am.*

182 *Out of executive session at 9:53 am*

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185 **On a motion duly made by Doran, seconded by Schok, it was,**

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187 **Resolved to adopt the Order of Default for Case No. 2022-000981.**

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189 **Roll call vote:** Doran – yes, Schok -yes; Stigen – absent and Markwood –
190 yes, Heaton- recused and abstained from voting.

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193 *The Commission adopted the Order of Default in Case No. 2022-000981 with regards to*
194 *Real Estate Salesperson Dustin Lorah.*

195

196 The Commission recessed for break at 9:56 a.m.

197 The Commission reconvened at 10:07 a.m.

198

199 The Commission started to discuss the regulation project and speak to the written public
200 comments received while waiting for the ALJ Kennedy to join the meeting for Agenda item
201 4(b)(iii).

202

203 Final Decision and Order, Case No. 22-0784-REC/2021-000267 – 4(b)(iii)

204 Ms. Markwood asked if any Commission members had a conflict of interest with case No.
205 22-0784-REC/2021-000267.

206
207 Ms. Heaton said she had a conflict of interest and requested to be recused from case No.
208 22-0784-REC/2021-000267.

209
210 Ms. Markwood recused Ms. Heaton from case No. 22-0784-REC/2021-000267.

211
212 Ms. Markwood handed the gavel to Vice-Chair Ms. Heaton to disclose a conflict of interest.
213 Ms. Markwood stated a possible conflict of interest.

214
215 Commission members went into executive session to discuss a license action from
216 agenda item 4(b)(iii), Final Decision and Order in case No. 22-0784-REC/2021-000267.

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219 **On a motion duly made by Schok, seconded by Doran, it was,**

220
221 **Resolved to go into executive session to deliberate the final decision**
222 **and order in Case No. 22-0784-REC/2021-000267.**

223
224 Roll call vote: Doran – yes, Heaton-yes; Schok -yes; Stigen – absent, and
225 Markwood – **yes.**

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228 *Commission went into executive session at 10:21 am.*

229 *Out of executive session at 10:39 am*

230
231 Ms. Markwood stated that once they went into executive session, they realized they had
232 another conflict of interest that needed to be disclosed on the record.

233
234 Ms. Schok stated she had a conflict of interest in this case due to her knowledge of the
235 case and would not be able to be impartial.

236
237 Ms. Markwood granted Ms. Schok's conflict of interest.

238
239 Ms. Markwood stated that with Ms. Shock's conflict of interest the Commission no longer
240 has a quorum and will need to reschedule the review of this case for a future date,
241 preferably with the next week or so.

242
243 Ms. Markwood made it clear for the record that the Commission is declaring on record that
244 Ms. Heaton and Ms. Schok have a conflict of interest in this case and this case cannot be
245 heard at this time. She stated there will need to be a meeting scheduled for a later date to
246 review and hear this case. The rescheduled meeting will be held with Ms. Doran, Ms.
247 Markwood, and Mr. Stigen to review and hear the final order and decision in this case.

248
249 Commission members requested more in-depth investigative training to be scheduled for
250 the next REC meeting to include the executive session process.

251
252 The Commission recessed for break at 10:45 a.m.

253 The Commission reconvened at 11:02 a.m.

254
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256 **Agenda Item 6 – Old Business**

257 Regulation Project – review public comments - 6(a)

258 12 AAC 64.118 Consumer Disclosure form

259 12 AAC 64.119 Waiver of Right to be Represented.

260

261 Commission members reviewed, discussed the written public comments received for the
262 AK REC Consumer Disclosure, AK REC Consumer Disclosure Addendum and AK REC
263 Waiver of Right to Be Represented and made changes to all forms.

264

265 **On a motion duly made by Heaton, seconded by Doran, it was,**

266

267 **Resolved to move forward with the discussed changes to the 3 forms:**

268 **AK REC Consumer Disclosure form - 08-4145,**

269 **AK REC Consumer Disclosure Addendum - 08-4145a, and**

270 **the AK REC Waiver of Right to Be Represented - 08-4212, as**

271 **previously noticed.**

272

273 Roll call vote: Doran – yes, Heaton-yes; Schok -yes; Stigen – absent, and
274 Markwood – yes.

275

276

277 **On a motion duly made by Doran, seconded by Heaton, it was,**

278

279 **Resolved move the 3 amended forms,**

280 **AK REC Consumer Disclosure form - 08-4145,**

281 **AK REC Consumer Disclosure Addendum - 08-4145a, and**

282 **the AK REC Waiver of Right to Be Represented - 08-4212, out for**

283 **public comment for a 10-day period, written comment only.**

284

285 Roll call vote: Doran – yes, Heaton-yes; Schok -yes; Stigen – absent, and
286 Markwood – yes.

287

288

289 12 AAC 64.930 Property Disclosure form and revised regulation

290 Commission members reviewed, discussed the written public comments received for the
291 SOA Residential Real Property Transfer Disclosure Statement and made changes.

292

293 **On a motion duly made by Heaton, seconded by Schok, it was,**

294

295 **Resolved to precede with changes, as discussed, to the SOA**

296 **Residential Real Property Transfer Disclosure Statement – 08-4229,**

297 **Exemption for First Sale- 08-4229a, and the Waiver by Agreement –**

298 **08-4229b forms, as previously noticed.**

299

300 Roll call vote: Doran – yes, Heaton-yes; Schok -yes; Stigen – absent, and
301 Markwood – yes.

302

303

304 **On a motion duly made by Schok, seconded by Heaton, it was,**
305
306 **Resolved to move changes to the SOA Residential Real Property**
307 **Transfer Disclosure Statement 08-4229, Exemption for First Sale- 08-**
308 **4229a, and the Waiver by Agreement – 08-4229b forms, out for public**
309 **comment for a 10-day period, written comment only.**

310
311 Roll call vote: Doran – yes, Heaton-yes; Schok -yes; Stigen – absent, and
312 Markwood – yes.

313
314 The Commission recessed for break at 1:10 p.m.
315 The Commission reconvened at 1:23 p.m.

316
317 **Agenda Item 5 – Division Update**
318 **Revenue/Expenditure Report, FY23/4th Qtr – 5(a)**
319 Melissa Dumas, Administrative Operations Manager for the Division of Corporations,
320 Business, and Professional Licensing, presented to the Commission the Revenue and
321 Expenditures report for the FY2023 4th quarter. She stated the current revenue was
322 \$236,029. Expenditures totals were as follows: There were non-investigative expenditures
323 of 177,832 and investigative expenditures of \$215,431, for a total of \$398,263 direct
324 expenditures. There were in- direct expenditures of \$203,101, (this includes internal
325 administration, department, and statewide costs), leaving the total expenditures at
326 \$596,364. There was a total ending cumulative surplus of \$960,070.

327
328 **Future Regulations – 6(b)**
329 Ms. Harris addressed the Commission about some possible topics for regulation changes
330 or create new regulations for some issues that have been going on with REC staff and/or
331 what has been brought forward from the industry. Those topics are:

- 332 • Office change process including:
 - 333 Change of broker and associate broker of office
 - 334 Change of office name
 - 335 Change of ownership of an office
 - 336 Change of ownership of an office with a non-licensed or salesperson as owner
 - 337 Office requirements, location, shared office space
 - 338 Audit of offices, mailing and physical address is out of state
- 339 • Audit of E & O Insurance
- 340 • Broker Supervision, licensee not responding to customers/clients
- 341 • Transaction coordinators
- 342 • HOA/Community Associations

343
344 The Commission would like to have a separate work meeting to go over these topics to
345 see how they would like to proceed to include the public.

346
347 **FY 2023/2024 Strategic Plan- update – 6(c)**
348 Ms. Harris gave an update on the 2023/2024 REC strategic plan. She stated the items
349 that were completed since the last meeting and can be deleted from the strategic plan is
350 the recommendation of DCE topics and guidelines for 2024-2026 and the Airbnb questions
351 that were answered by DOL. Pending items are the form revisions that will go out again for

352 public comment, the review of regulation 12 AAC 64.064(g) regarding post licensing
353 education,, payment of commission/EM through title companies and the fee analysis that
354 will be revisited the next year or so.
355

356

357 **Agenda Item 7 – New Business**

358 **2024 Meeting Dates – 7(a)**

359

360 The meeting dates for 2024 that the Commission members agreed on are:

361 March 20

362 June 19

363 September 17 – possible in-person meeting

364 December 18

365

366

367 **Agenda Item 8 – Executive Administrator’s Report**

368 **Licensing/Education Report/ Statistics – 8(a)**

369 Mr. Givens presented the licensing report for December 14, 2023, to the Commission. He
370 reported that between August 24, 2023, through November 22, 2023, there were 87 new
371 licenses issued; 3,035 active licensees, 3,324 total number of licensees with an 1/31/2024
372 expiration date; 83 inactive licensees; 68 lapsed licenses due to non-compliance of PLE;
373 62 transfers; 66 licensees completed their PLE requirements and 150 licensees in a
374 license returned status.
375

376

376 Mr. Givens presented the education report for December 14, 2023. He reported that as of
377 November 22, 2023, for courses currently approved there were 12 pre-licensing courses; 4
378 broker upgrade courses; 443 the elective (ECE) and 123 designated (DCE) courses and
379 77 Post Licensing courses with a total of 515 approved courses. There were 9 initial
380 courses approved between 9/22/23 and 11/27/23.
381

382

382 There are a total of 107 instructors. There were 2 new instructors, Cristy Nugent, and
383 Heather McCarthy both from Anchorage, since the last report and no temporary
384 instructors.
385

386

386 **Recovery Fund Balance Report – 8(b)**

387 Ms. Harris presented the Recovery Fund Report for the 4th quarter, ending June 30, 2023.
388 The Commission received a total of \$141,104 for license fees processed for the year and
389 \$74,052 total expenditures for the year. The beginning year balance was \$317,389 and
390 the end of year fund balance of \$384,741.
391

392

393

393 **Agenda Item 9 – Commission Member Comments & Questions**

394 Ms. Heaton said it was a good meeting and appreciates everyone time. She said it is an
395 arduous process going through the form revisions, but she said we are getting close and
396 the changes the Commission made today are good. Hopefully, we will get more comments
397 so that it will make these forms better but maybe not so much as it would have to go out
398 for public comment again. She would like these changes to move forward so that we can
399 use the revised forms. She is excited about the work session so that we will be able to
400 work out some of these topics like broker supervision.
401

402

402 Ms. Schok said it was a good meeting and she is looking forward to the new year.
403

403

404 Ms. Doran said she appreciates Ms. Coan and Ms. Buchholz for their comments and
405 sticking with the form revision to the end of the meeting.

406
407 Ms. Markwood said there was a lot accomplished at this meeting today and appreciates
408 everyone's hard work. These regulations have been in process since 2021 and she is
409 hoping the Regulation Specialist will get this regulation project moving forward a bit faster.
410 She is excited for the industry to see the changes. She thanked the Commission members
411 for their hard work. There have been a lot of investigations and those have been moved
412 through since the last meeting and she said appreciates that. She is also excited for the
413 work meeting and to address some of those topics and receive industry input. She said
414 she is grateful for all the Commission members and appreciates their service to the
415 industry.

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417

418 **Adjournment**

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420 **On a motion made by Schok, seconded by Doran, it was,**

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422 **Resolved to adjourn the meeting.**

423

424 **No objections: Motion passed.**

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427 Meeting adjourned at 2:30 pm.

428

429 Next meeting: March 20, 2024.

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Prepared and submitted by:
Real Estate Commission Staff

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433

Approved:

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435

Cheryl Markwood

436

Cheryl Markwood

437

REC Chairperson

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Alaska Real Estate Commission

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