

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

MEETING MINUTES
December 11-12, 2008

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 December 11 - 12, 2008, at the Atwood Building, Ste. 602, Anchorage, AK.

Thursday, December 11, 2008

Agenda Item 1a

Call To Order

Chairman Bradford Cole called the meeting to order at 9:06 a.m. at which time quorum was established.

Roll Call

Members present constituting a quorum, were:

Brad Cole, Broker, 3rd Judicial District, Chairman
David B. Somers, Broker at Large, Vice Chairman
Gene DuVal, Associate Broker, 4th Judicial District
Roger Stone, Broker, 1st Judicial District
Chris Swires, Associate Broker/Broker at Large
F. Lee Sherman, Public Member
Tim Worthen, Public Member, joined the meeting at 9:12a.m.

Staff Present:

Sharon Walsh, Executive Administrator
Beata Smith, Licensing Examiner
Nancy Harris, Project Assistant

Guests Present:

Peggy Ann McConnochie, Broker of Alaska Coastal Homes
Mark Davis, Special Assistant to the Commissioner of Commerce
Al Romaszewski, Broker of Re/Max Eagle River, Inc
Chris Kennedy, Administrative Law Judge (ALJ) Office of
Administrative Hearings (OAH)
Linda Hall, Director, Division of Insurance

Agenda Item 1b

Approval of Agenda

The Commission members reviewed and discussed the revised agenda.

**On a motion duly made by Somers, seconded by
Stone, it was**

**RESOLVED to approve the agenda as
presented.**

All in favor. Motion passes.

Agenda Item 2

Approval of Minutes

Commission members reviewed the September 15-16, 2008 meeting minutes as presented.

Page 11 of 21: Re-adoption of 12 AAC 64.580 Community Association. Resolved to readopt regulation 12 AAC 64.580, there was no proposed language recorded. It came back because the Commission didn't adopt the language after changing it.

Page 15 of 21, 4th paragraph: Question: Whether the statutes of limitation were the purpose of the surety fund? It was whether the statute of limitation it started upon the discovery or upon the actual action.

Page 15 of 21, last paragraph: "Mr. Harvey was found not comfortable for that reason" This was written verbatim by what Mr. DuVal stated on record. It should have been "Mr. Harvey was found not *liable* for that reason, so he wants his surety fund back."

On a motion duly made by Somers, seconded by Stone, it was

RESOLVED to adopt the September 15-16, 2008 meeting minutes identified as item C (latest draft) as revised.

Mr. DuVal has a question on page 19, new version of the meeting minutes. All in favor. Motion passes. Mr. Stone proposed another motion. The question Mr. DuVal had was the circumstances of the payout based on the errors by both the previous Commission and this Commission. This was written verbatim. Mr. Stone stated that there were series of mistakes made in the presentation and the whole thing in retrospect is exercising futility.

All in favor. Motion passes.

Commission members reviewed the October 10, 2008 teleconference meeting minutes as presented.

On a motion duly made by Stone, seconded by DuVal, it was

RESOLVED to approve the October 10, 2008 teleconference meeting minutes as presented.

All in favor. Motion passes.

Agenda Item 3

Public Comment

There were no public comments.

Agenda Item 4b

Regulation Project

Review Public Written Comments

The Commission members reviewed and discussed the public written comments from:

Renee Staley, North Star Alaska Housing Corporation, Provided her interpretation of the Commission's ability to develop regulations. She talks about exceeding the power to delegate and no where within the Commission's authority, are they given the right to regulate the corporations.

James DeWitt, Guess & Rudd P.C., "The changes would amend 12 AAC 64.905 to require property-owning corporation or partnership to use a real estate broker for any sale or lease of real property, if the corporation or partnership engages in more than four "instances" in a year. The regulation, if adopted, would require a family corporation owning a four-plex in a calendar year."

Debbie White, Broker Southeast Alaska Real Estate, "Specifically, I know of an out of state broker who doesn't have a physical office within Alaska, but uses a state office address as an "office" address. Obviously, the public will not find someone sitting there representing their company. Is this the type of thing this change is designated to prohibit? This is a very large brokerage licensed in several states."

Barbara Ramsey, Associate Broker Dynamic Properties, regarding the change to 12 AAC 64.940(a): "The original drafters of this section debated the same issue of whether the disclosure should be the amount or a percentage. Of course, using a percentage is certainly simpler and easier for the licensee, but does it serve the public by truly disclosing the amount being paid to another? If the intent of this section is to fully disclose how much compensation is being directed to another, why soften the language unless the licensee is uncomfortable with providing the amount for some reason. Should the public be required to use a calculator or guess if they want to know an exact amount?"

Regarding 12 AAC 64.940(d): The original drafters of this section felt that disclosure should occur with both buyer and with sellers. The changes in this section appear to require disclosure to a seller with the listing agreement and settlement, but with the buyer at settlement only. While removing item 4 does make sense, removing the need to disclose when a purchase agreement is written informs the buyer only after the event."

J. Kim Paisley, Broker JKP Real Estate Inc.: " From reading the proposed changes, that a "Home Office", may not show a sign indicating that it is the main principal office." This does not pertain to me at the moment, but may I elect to move my main office

(only) to my home and operate my (1) (only) main office from my home. What are the current laws for this operation, and "what" will this language do to my future concept?"

On a motion duly made by DuVal, seconded by Stone, it was

RESOLVED to forward to the Attorney General office for review of the public comments and the review of the draft regulation for 12 AAC 64.905 'Exceptions to Requirements' for Real Estate License.

All in favor. Motion passes.

Agenda Item 4a

Regulation Project

The Commission Members reviewed and discussed regulations 12 AAC 64.010 Examination, 12 AAC 64.050 Rescoring, 12 AAC64.110 Offices, 12 ACC 64.115 Minimum Requirements for Maintaining an Office, 12 ACC 64.128 Home Office, 12 ACC 64.905 Exceptions to Requirements for Real Estate Licensee, and 12 ACC 64.940 Disclosure Compensation.

On a motion duly made by DuVal, seconded by Somers, it was

RESOLVED to adopt regulation 12 AAC 64.010 'Examination'.

All in favor. Motion passes.

On a motion duly made by Somers, seconded by Stone, it was

RESOLVED to repeal regulation 12 AAC 64.050 'Rescoring'.

All in favor. Motion passes.

The Commission members tabled on accepting proposed regulations after Regulation Project Oral Public Comments.

Agenda Item 8

Education Report

Ms. Harris presented the education statistics to the Commission.

Gay Jones-AREC Certified Instructor

Ms. Harris provided the Commission with information regarding Gay Jones. Ms. Jones is a certified instructor in the state of Alaska but was teaching a course that was not certified by the

Alaska Real Estate Commission at that time. There are two parts to the application for instructor and course material. The instructor and the course that is provided by the applicant must be approved before any courses are being taught in order for the licensees to get credit for that class. The process in Alaska is similar to other states as far as approving the instructor and the course.

On a motion duly made by Somers, seconded by Stone, it was

RESOLVED not to credit the hours for the course that was taught by Gay Jones and notify all licensees that took the course that they will not be credited for that class.

All in favor. Motion passes.

The Commission recessed for break at 10:30 a.m.
The Commission reconvened from break at 10:40 a.m.

Agenda Item 5

Regulation Project Oral Public Comments

There were no oral public comments for the regulation projects.

Agenda Item 8d

AREC Sponsored Course

The Commission members discussed AREC sponsored courses in regards to short sales, environmental issues, repossessions, etc. The Commission had not made a decision on AREC sponsored courses at this time.

Ms. Harris discussed a proposed regulation change with the Commission. Licensees who fail to complete the 20 continuing education hours before January 31 of each renewal year will incur a penalty of \$250.00 for non compliance if they wish to retain their license.

On a motion duly made by Somers, seconded by Stone, it was

RESOLVED to accept language as presented on the proposed regulation change for 12 AAC 64.500(j)(3) Continuing Education Requirements.

All in favor. Motion passes.

Agenda Item 4

12 AAC 64.010(d) Examination

On a motion duly made by Somers, seconded by DuVal, it was

RESOLVED to accept language on proposed regulation 12 AAC 64.010 Examination to read:

(d) An applicant for licensure shall pass a written examination, approved by the commission, before applying for a license as a real estate broker, associate broker, or a real estate salesperson. The written examination consists of two parts; a general part and a state part. An applicant must sit for both parts of the written examination during the same examination session.

All in favor. Motion passes.

12 AAC 64.050 Rescoring

(Commission members made a motion on proposed regulation 12 AAC 64.050 earlier in the day. See page 4)

12 AAC 64.110 Requirements for establishing and maintaining an office

On a motion duly made by Somers, seconded by DuVal, it was

RESOLVED to readopt proposed regulation 12 AAC 64.110 Requirements for establishing and maintaining an office to read:

(a) A real estate broker holding an active license shall establish and maintain a business office in this state. The office in which the broker works and maintains the broker's [HIS] license is considered the principal office or principal branch of the broker.

All in favor. Motion passes.

12 AAC 64.110 Offices and 12 AAC 64.115 Minimum Requirements for Maintaining an Office

On a motion duly made by Somers, seconded by DuVal, it was

RESOLVED to adopt proposed regulations 12 AAC 64.110 Office and 12 AAC 64.115 Minimum Requirements for Maintaining an Office to read:

12 AAC 64.110 (g) A real estate broker holding an active license shall

- (1) within the state, maintain one or more trust accounts and records of all Alaska real estate transactions as required by AS 08.88.351 and 12 AAC 64.220; and**
- (2) provide for acceptance of legal service at the business address registered with the commission.**

12 AAC 64.115 accept as repealed.

All in favor. Motion passes.

12 AAC 64.128 Home Offices

On a motion duly made by DuVal, seconded by Somers, it was

RESOLVED to adopt proposed regulation 12 AAC 64.128 Home Offices to read:

(a) A licensee conducting business out of home office must comply with supervision requirements of 12 AAC 64.125.

(b) A licensee conducting business out of home office may not:

- 1) give the appearance or impression that the home office is a principal office or branch office;**
- 2) display a sign showing the name of their real estate business at their home office;**
- 3) use the address of the home office in any form of advertising, business letterhead, or business cards; the address of the principal or branch office which the licensee operates from must be used.**

All in favor. Motion passes.

12 AAC 64.905 Exceptions to Requirements for Real Estate License

On a motion duly made by DuVal, seconded by Sherman, it was

RESOLVED to adopt proposed regulation 12 AAC 64.905 Exceptions to Requirements “for Real Estate License with the caveat that the Attorneys General office be instructed to look at the public comment and advise the Commission on any loop holes in this proposed regulation change.” to read:

- (a) The exceptions to the requirements to obtain a real estate license listed under AS 08.88.900 are limited to only those activities as specifically described in each of those exceptions.
- (b) For the purpose of AS 08.88.900(9), “incidental to the regular course of business” *is defined as* the performance of no more than four instances of activities requiring a real estate license as defined in AS 08.88.081 within one calendar year.

All in favor. Motion passes.

12 AAC 64.940(a) Disclosure of Compensation

On a motion duly made by Stone, seconded by Somers, it was

RESOLVED to accept the language as presented on the proposed regulation 12 AAC 64.940(a) to read:

- (a) In a real estate sales transaction, a broker shall disclose in writing to the broker’s principal the dollar amount or percentage of transaction amount of any rebate, compensation, or fee paid to another broker in connection with that transaction.

All in favor. Motion passes.

12 AAC 64.940(b)

On a motion duly made by Stone, seconded by Somers, it was

RESOLVED to accept the language as presented on the proposed regulation 12 AAC 64.940(b) to read:

- (b) The provisions of (a) of this section do [SUBSECTION (A) DOES] not require a broker to

disclose the payment of a franchise fee, an internal office operating cost, or compensation to a licensee [LICENSE] within the broker's office.

All in favor. Motion passes.

12 AAC 64.940(d)

On a motion duly made by Stone, seconded by Somers, it was

RESOLVED to accept the language as presented on the proposed regulation 12 AAC 64.940(d) to read:

- (d) A disclosure required of a broker to the broker's principal under (a) of this section shall be made when**
- (1) the listing contract is signed;**
 - and**
 - (2) the purchase agreement is signed;**
 - (3) the settlement statement is signed [; and**
 - (4) the terms of the real estate transaction change]**

All in favor. Motion passes.

Agenda Item 6

Ms. Walsh stated to the commission that Mark Davis is no longer the Director for the Division of Corporations, Business and Professional Licensing, the new Director is Lynne Smith. Mark Davis, Special Assistant to the Commissioner met with the Commission. Mr. Davis discussed with the Commission conducting the trust accounts audits.

Mr. Davis: Staff receive complaints pertaining control issues. These issues will be reviewed by the staff rather than the staff responding to the claim. Any input will be appreciated from the Commission on how the real estate market is doing.

The Commission recessed for lunch at 11:53 a.m.
The Commission reconvened from lunch at 1:24 p.m.

Agenda Item 7

Mandatory Errors & Omission Insurance

Linda Hall, Director, Division of Insurance spoke with the Commission members about the Errors & Omission Insurance (E&O). Ms. Hall made few changes and had some suggestions to the E& O Insurance regulations being drafted.

Definitions. When used in this chapter, unless the context otherwise requires:

- 1 "Aggregate limit" means the maximum liability of an insurer *regardless of the number of claims during* the policy term.
- 2 "Equivalent coverage" means coverage obtained independently of the group plan available from the commission and *which complies with the requirements, terms and conditions as set forth in this chapter.*
- 3 "Errors and Omissions Insurance" means professional liability insurance that provides coverage to holders of active Alaska real estate brokers, associate brokers and salesperson licenses for *negligent* errors and omissions made during the course of real estate transactions, subject to the coverage's, limitations and exclusions of the specific insurance policy or policies in place.
- 4 "Extended Reporting period" means a designated period of time after a claims-made policy has expired during which a claim may be made and coverage triggered as if the claim has been made during the policy period.
- 5 "Prior acts coverage" means claims that are made during a current policy period, but the act or acts causing the claim or injuries for which the claim is made occurred prior to the inception of the current policy period.
- 6 "Retroactive date" mean the date which is the starting date for prior acts coverage. This date is based on the effective date of the first errors and omissions coverage insuring the named insured on a claims-made basis since which time the insured has been continuously insured.
- 7 "Proof of coverage" means a certificate of insurance.
- 8 "Qualified insurance carrier" means an insurance carrier *which provides the group plan of errors and omissions insurance under these regulations shall;*
 - (a) Maintains an A.M. Best rating of "B+" or better and financial size category of class VI or higher;
 - (b) *Maintain a certificate of authority issued by the director of the Alaska Division of Insurance to transact insurance business in Alaska; and to be in compliance with Alaska insurance statutes*

(c) *Provide the errors and omissions insurance after notification by the commission that is the successful bidder for the group plan, after the competitive bidding process;*

(d) *Shall enter into contract to provide said group errors and omissions plan in conformity with said contract, these regulations, and the Alaska insurance law;*

(e) *Shall collect premiums, maintain records, and report the name of the insured and claims experience, date of claim, amount paid, nature of claim, claims information on annual or bi-annual basis.*

9 *"Single-limit liability" means the maximum limit payable, per licensee, for damages arising out of the same error, omission, or wrongful act.*

Insurance required. An applicant for issuance of a license on active status, a licensee renewing a license, or an inactive licensee activating a license must submit proof of insurance coverage through the group plan or through certification of equivalent coverage.

Minimum standards. The group policy obtained by the commission shall provide to each individual licensee, at a minimum, the following terms of coverage:

(a) Not less than *one* hundred thousand dollars single-limit liability coverage for each licensee per occurrence or claim made, *the claims and claims expenses shall be in addition to the limits of liability;*

(b) An annual aggregate limit of not less than five hundred thousand dollars per licensee;

NOTE: (changed since previous draft minutes, for discussion purposes it was suggested by Mr. Cole to be set at \$500, 000 and wait for public comment)

(c) A deductible amount for each occurrence of not more than one thousand dollars for single-limit liability coverage and two thousand-five hundred dollars maximum additional deductible for defense and investigation;

(d) An extended reporting provision of ninety days and an option to purchase an additional three years extended reporting provision for a premium not to exceed two hundred percent of the premium charged for the last year of the terminating coverage

NOTE: The actual policy language will have some restrictions such as a licensee whose license is suspended due to a disciplinary action.

(e) The ability of a licensee, upon payment of an additional premium, to obtain higher or excess coverage or to purchase additional coverages from the group carrier as may be *available from the insurer*

(f) The coverage *provided under the group plan* is individual and license-specific and will cover the licensee regardless of changes in employing broker; and

(g) Prior acts coverage shall be offered to licensees with continuous past coverage.

Except as provided in this section, coverage may not exclude claims brought against the insured licensee arising out of an act or failure to act by the licensee when performing a professional service for which a real estate license is required. Coverage may limit or exclude claims brought against a licensee which arise as follows:

(i) Out of claims or suits made or brought by any insured person against any other insured person within the same firm or from compensation disputes between licensees;

(ii) Out of loss assumed under contract or agreement, except for liability the insured would have had in the absence of such agreements;

(iii) From any criminal, dishonest, *fraudulent*, or willful act or omission. This exclusion does not apply to any insured person who did not personally participate in committing such an act or omission and who, upon having knowledge of the act or omission, reported it;

(iv) From unlawful discrimination committed by or for the insured person;

(v) From fines or penalties imposed by law;

(vi) From bodily injury, personal injury, advertising injury, or property damage;

(vii) From related business activities for which a license is not required under this chapter;

(viii) From hazardous materials, nuclear materials, or pollutants;

(ix) From prior wrongful acts *unless specific prior acts coverage is provided*;

(x) From any violation of the Securities Act of 1933, as amended through July 1, 1993, or the Securities Exchange Act of 1934, as amended through July 1,

1993, or any state blue sky or securities law or similar state or federal statutes; or
(xi) Other standard exclusions that are typical in a professional liability insurance *policy* may be permitted, subject to *acceptance in the bidding process* by the Alaska Real Estate Commission.

Group policy approval requirements. Any group practices of the insurance industry and be *filed for approval* by the Alaska Division of Insurance.

Equivalent coverage.

(a) An active licensee who chooses the option of obtaining errors and omissions insurance independently from a carrier other than the group carrier under contract with the commission must show evidence of coverage by providing certification of coverage on a form prescribed by the commission. The form must show proof that the licensee has coverage in compliance with the minimum standards established by section 9. The form must be signed by an authorized representative of the insurance company and must contain a cancellation notification clause as required by 12 AAC 64.

Standards for equivalent coverage. A carrier issuing insurance coverage pursuant to Alaska statutes 08.88.172 must be an admitted carrier in Alaska. All activities contemplated under Alaska statutes 08.88.172 through (?) must be covered.

The insurance must provide a minimum, not less than *one* hundred thousand dollars single-limit liability coverage for each licensee for each occurrence or claim made, not including the cost of investigation or defense, and an annual aggregate of five hundred thousand dollars for each licensee, not including the cost of investigation and defense. A responsible broker may comply with this requirement by certifying coverages of a minimum of *two* hundred thousand dollars *per occurrence* and one million dollars *aggregate*, if all licensees associated with the broker are covered.

Time for filing certification of equivalent coverage. Certification of equivalent coverage must be filed with the commission by five p.m. on the date of expiration of coverage. If the

certification is not filed on time, the commission shall place the license on inactive status on that date.

Nonpayment of premium. If a licensee's insurance company or group plan notifies the commission that a licensee has not paid a premium of \$200, the commission shall place that license on inactive status as of the date of termination of coverage.

Surrender of license for failure to provide proof of insurance.

(a) When a licensee receives notice of being placed on inactive status for failure to provide proof of insurance, the licensee shall immediately surrender the license to the commission.

Notification required for cancellation.

(a) If insurance under equivalent coverage is to lapse or not be renewed, the providing company must notify the real estate commission of the intent to lapse or not to renew, a minimum of thirty days before the expiration date of the term. *It is the responsibility of the employing broker or licensee as applicable to provide this notice to the commission.*

Proof of insurance required to activate license.

(a) A licensee whose license has been placed on inactive status for failure to provide proof of insurance may not conduct any activities for which a license is required until proof of insurance has been provided to the commission and the license has been activated. The license shall be considered active as of the effective date of the insurance.

Authenticity of coverage.

- a) A licensee may not willfully or knowingly cause or allow a certificate of coverage to be
- b) filed with the commission that is false, fraudulent, or misleading.

Discussion: The statute requires the regulations to include maximum amount of premium and the

method of adjusting based in the consumer price index.

The Commission recessed for break at 3:30 p.m.
The Commission reconvened from break at 3:45 p.m.

Agenda Item 9

Executive Administrator's Report

Ms. Walsh reviewed and discussed with the Commission members the surety fund balance tracker, surety fund balance report, other states and the use of licensee's entity, consider proposal : per AS 08.88.291(b), and trust account audit. The revenue and expenditure report was not provided by Chris Wyatt, Administrative Manager out of Juneau to the Commission.

Agenda Item 10

Surety Fund Report

S-28-010 Diane and Leonard Johnson vs. Adam Adams

The Commission members move to executive session at 4:00 p.m.

On a motion duly made by Stone, seconded by Somers, it was

RESOLVED to move to the executive session.

All in favor. Motion passes.

The Commission members reconvened from executive session at 4:15 p.m.

On a motion duly made by DuVal, seconded by Somers, it was

RESOLVED to approve Surety Fund S-28-010 Diane and Leonard Johnson vs. Adam Adams proposed decision.

All in favor. Motion passes.

Agenda Item 8

Education Report

On a motion duly made by Somers, seconded by Stone, it was

RESOLVED to accept Education Report as presented to the Commission.

All in favor. Motion passes.

Executive Administrator's Report

On a motion duly made by Somers, seconded by Stone, it was

RESOLVED to accept Executive Administrator's Report as presented.

All in favor. Motion passes.

Agenda Item 11

Licensing Examiner's Report

Ms. Smith presented the statistical report to the Commission for the period of August 26, 2008 through November 21, 2008 for their review.

There were 34 new licensees, 2363 active licensees, and 2500 total number of licensees with a January 31, 2010 expiration date. There are 483 active brokers, 411 active associate brokers, and 1460 active salespeople. Four offices closed and seventeen new offices opened, with 3 in Anchorage, 10 in Fairbanks, 1 in Sutton, 1 in Soldotna, 1 in Chugiak, 1 in Klawock, and 1 in Palmer.

On a motion duly made by Stone, seconded by Sherman, it was

RESOLVED to accept Licensing Examiners Report as presented.

All in favor. Motion Passes.

Agenda Item 12a

Old Business

Mr. DuVal reviewed and discussed with the Commission the use of licensee's entity name in contracts. The Commission members were concerned about an activity being done by someone in the legal entity who wasn't licensed. May the legal entity do business? Mr. Somers stated to the Commission that the original purpose for bringing this forward is a little narrower and it had to do with common practice of real estate brokers paying their licensees as members of LLC's. The current statute indicates that only a natural person can have a license.

On a motion duly made by Stone, seconded by DuVal, it was

RESOLVED to reconsider the use of licensee's entity name in contracts.

The Commission had further discussion on the use of licensee's entity name in contracts. Licensed activities defined under the statutes and regulations in Alaska have to be performed by a licensed individual. That licensee may designate to his broker that

the compensation for transactions may go to an LLC, corporation or partnership.

Motion is on the table to reconsider.

On a motion duly made by DuVal, seconded by (no one), it was

RESOLVED for the Commission to void previous proposed language for legal entities.

Those in favor: No members were in favor.

Those opposed were: Mr. Stone, Mr. Somers, Ms. Swires, Mr. Worthen, Mr. Sherman, Mr. DuVal

Motion dies for lack of second.

On a motion duly made by DuVal, seconded by (no one), it was

RESOLVED to adopt the new language titled 'Revisions' legal entities.

Motion dies for lack of second.

On a motion duly made by Stone, seconded by Worthen, it was

RESOLVED to adopt the proposed language in sentences a, b, c and eliminating d Legal Entities.

Those in favor: Mr. DuVal and Ms. Swires

Those opposed: Mr. Somers, Mr. Stone, and Mr. Worthen

Agenda Item 12b

Use of Bed & Breakfast Reservations

Mr. Stone discussed with the Commission the use of Bed & Breakfast reservations. Many of the Bed & Breakfast operations transfer over into longer term rentals especially in the off season and continue to be managed by the Bed & Breakfast Reservation Services. Does this activity require a license? Should the Commission be investigating this and looking into it? Mr. Stone stated to the Commission that he would do additional research on the use of Bed & Breakfast Reservations.

Agenda Item 12c

Response from Wallace, Wallace & Wakefield

The Commission members reviewed and discussed the response from Wallace, Wallace & Wakefield, which truck had an advertisement "Buy or Sell Your Home With Us and Use This

Truck for Free" The language was removed from the truck.

**On a motion duly made by DuVal, seconded by Swires,
it was**

**RESOLVED to recess the meeting until Friday,
December 12, 2008 at 9:00a.m.**

All in favor. Motion Passes.

The Commission recessed at 5:25 p.m. until December 12, 2008
at 9:00 a.m.

Friday December 12, 2008

Call To Order

Chairman Bradford Cole called the meeting to order at 9:00 a.m.
at which time quorum was established.

Roll Call

Members present constituting a quorum, were:

Brad Cole, Broker, 3rd Judicial District, Chairman
David B. Somers, Broker at Large, Vice Chairman
Gene DuVal, Associate Broker, 4th Judicial District
Roger Stone, Broker, 1st Judicial District
Chris Swires, Associate Broker/Broker at Large
Tim Worthen, Public Member
F. Lee Sherman, Public Member

Staff Present:

Sharon Walsh, Executive Administrator
Beata Smith, Licensing Examiner
Nancy Harris, Project Assistant
Michele Wall-Rood, Real Estate Investigator

Guests Present:

Peggy Ann McConnochie, Broker of Alaska Coastal Homes

Agenda Item 14

Investigative Report

The Commission members move to executive session at 9:05
a.m.

**On a motion duly made by DuVal, seconded by
Somers, it was**

**RESOLVED to move to the executive session to
discuss personnel and the investigative issues.**

All in favor. Motion passes.

The Commission members reconvened from executive session at 9:25 a.m.

The Commission members move to executive session at 9:25 a.m.

On a motion duly made by DuVal, seconded by Somers, it was

RESOLVED to move to executive session.

All in favor. Motion passes.

The Commission members reconvened from executive session at 10:35 a.m.

On a motion duly made by Somers, seconded by Swires, it was

RESOLVED to adopt the case #300-08-005, surrender of Rick Hunter, license #6802.

All in favor. Motion passes.

On a motion duly made by Somers, seconded by DuVal, it was

RESOLVED to adopt case #300-08-008, Consent agreement, Mae Sprague as presented to the Commission.

All in favor. Motion passes.

Agenda Item 15

Continuing Education Issues-Division Paralegal

Karen Wilke, Paralegal discussed with the Commission members consent agreements for the following cases: 3300-08-001 Ramsey, 3002-08-003 Pfrimmer, 3002-08-004 Crowley, 3002-08-005 Burnett, 3001-08-018 Bevington, and 3004-08-017 Bolding. Chair Cole would like to see a fine matrix to be used in the future to facilitate this.

On a motion duly made by Somers, seconded by DuVal, it was

RESOLVED to adopt consent agreements for the following cases: 3300-08-001 Ramsey, 3002-08-003 Pfrimmer, 3002-08-004 Crowley,

3002-08-005 Burnett, 3004-08-018 Bevington, and 3004-08-017.

All in favor. Motion passes.

Mr. DuVal discussed an e-mail with the Commission from legal counsel with Cook Inlet Regional, Inc. a Native Corporation. Regarding a subsidiary maintaining a trailer court in Anchorage, would the management need to be licensed in real estate? The Commission determined based on his activities that a license is necessary.

Agenda Item 13c

New Business

A licensee transferred to a new office from another company and her commission checks were payable to her (licensee's name) but the 1099 her brokerage issued was actually under her corporate LLC tax ID number. Mr. DuVal stated that it was a policy of the Commission that it was acceptable to pay legal entity's. The technicality of how they are paying is an accounting question.

On a motion duly made by DuVal, seconded by Somers, it was

RESOLVED that it is the policy of the Commission that it is permissible to pay either a broker or a licensee as a legal entity.

All in favor. Motion passes.

A licensee has the eco-broker designation. She wants to advertise using this designation; however, the problem is, she is not a broker. Her broker is therefore concerned that this advertisement might be misleading. An eco-broker is a new designation that can be given to the people who take courses, it qualifies them as being someone who is knowledgeable about environmental issues. The concern is that it says eco-broker and it could be a licensee who is not an associate broker or a broker. The Commission agreed that a licensee can't use the designation of eco-broker because it's confusing license law. Ms. McConnochie, Broker of Alaska Coastal Homes, told the Commission that this designation, Eco-Broker is not recognized by the National Association of Realtors (NAR). Commission directed staff to write a letter to the two licensees who have this designation.

The June 18-19, 2009 Real Estate Commission meeting will now be held in Anchorage and not in Fairbanks.

Agenda Item 13a

Legislative Recommendation change B/AB to "Licensee" in 08.88.071(10)

Per AS 08.88.071(10) "Revoke a license of a broker or associate broker who is convicted of a felony or other crime committed." Change to "Revoke a license of a *licensee* who is convicted of a

felony or other crime committed"

Agenda Item 13b Goal & Objectives for FY09 & FY10

The Commission agreed to enhance the investigative process between the Commission and the Investigative Unit. Their intent is to be more focused on current industry issues and education. The Commission wants to ensure that there is a historical record so that new Commission members can easily familiarize themselves with prior issues.

Errors and Omission Insurance

The Real Estate Commission will base the Consumer Price Index (CPI) for Errors & Omissions on the Bureau of Labor Statistics that follow the industry for insurance carriers and related activity. This can be found on the US Department of Labor, Bureau of Labor Statistics, Producer Price Index Industry Data tables.

On a motion duly made by Somers, seconded by Swires, it was,

RESOLVED to adopt the revisions made to the E&O insurance regulation by Linda Hall.

All in favor. Motion passes

On a motion duly made by Sherman, seconded by Worthen, it was

RESOLVED to adjourn the meeting.

All in favor. Motion passes.

Meeting adjourned at 1:45 p.m.

Next meeting is March 12-13, 2009 in the State Office Conference Room A, Juneau, AK.

Prepared and submitted by Beata Smith, Division Staff.

Approved:



Brad Cole, Chairperson
Real Estate Commission

Date: 10/8/09