

# ALASKA REAL ESTATE NEWS

September 2010

Sean Parnell, Governor  
Susan K. Bell, Commissioner  
Don Habeger, Director

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MEMBER

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Sharon Walsh

## June Real Estate Commission Meeting Highlights

The Commission reviewed and acted on a few licensing issues at this last meeting. The first was adopting the surrender of Sandra Nunes's salesperson license. The other licensing issue that the Commission considered was the Lori Schooley case, OAH 09-0622-REC. Ms. Schooley was a Broker in Fairbanks for Gold Standard Referral office. *(For more information regarding these two cases, please see Disciplinary Actions on page 4 -5.)*

The Commission members also reviewed and adopted four surety fund decisions. The proposed decisions from the Office of Administrative Hearings had no finding for misrepresentation, fraud or deceit in any of the claims filed. Therefore, no payments were made from the fund for any of these claims.

At this meeting the Commission attempted to define, for a future regulation, the meaning of "listing". Expect to see this as a regulation project and when it is out for public comment we look forward to hearing from you.

The Real Estate Commission Investigator, Michele Wall-Rood, reported that there are nearly 140 open cases and 32 cases that were closed. Two cases are pending litigation and 3 are being prepared for accusations by the Assistant Attorney General. She stated that the increase in cases was primarily due to issues with license renewals.

We welcome all licensees and consumers to participate in our quarterly meetings. You can find our meeting schedule and agenda on the REC website at [www.commerce.state.ak.us/occ/prec.htm](http://www.commerce.state.ak.us/occ/prec.htm). The next quarterly meeting is Thursday, September 9th in Anchorage at the Atwood Building located at 550 W 7th Avenue on the 12th floor, suite 1270.



We would like to thank outgoing public member Barbara Dickson for her time and dedication to serving on the Commission. We wish her well in her future endeavors.

## GOVERNOR APPOINTS NEW COMMISSION MEMBER



In August, Governor Parnell appointed Marianne Burke to the Real Estate Commission. She serves as a public member and brings a diversified professional background to the Commission. Her professional background includes engineering and public accounting. She was appointed Director of Insurance in 1995 for the Department of Commerce, Community & Economic Development.

As Director, she represented Alaska nationally and the United States internationally in working toward international standards of doing business, professional standards of governance and prudential business policies and procedures. Immediately after leaving her position as Director, she was asked to work with countries around the world to help write laws, regulations and train staff and industry personnel. She has worked in Europe, Africa, South America, Asia and the Middle East.

In Alaska, she serves as Chair of the Municipality of Anchorage Board of Equalization, consults in civil proceedings and works with individuals and small businesses on insurance, financial and organizational matters. However, nothing takes precedent over her love for travel, family and friends.

Please join staff in welcoming Ms. Burke to the Commission.

## LICENSING

### ► Current Forms

Recently, the REC forms have been updated due to fee and regulation changes. Please submit the most current form with any new application or status change. The revision date can be found at the bottom of each form. To ensure you have the most current form please check the REC website at [www.commerce.state.ak.us/occ/prec.htm](http://www.commerce.state.ak.us/occ/prec.htm).

### ► Closing your office

There is a new regulation, 12 AAC 64.111, that now requires certain items be completed and submitted to the REC office before an office can be closed:

- Submit a completed Office Changes form to close the office (AS 08.88.301) There is no fee to close an office.
- Provide a bank statement showing a zero balance in the trust accounts or appropriate trust fund documentation
- Submit the name, address, and phone of the custodian of records and the location where the transaction record of brokerage for the last three years may be accessed; and
- Submit a completed form for license transfer or change of status as required under AS 08.88.301 and 12 AAC 64.075.



Sharon J. Walsh  
Executive  
Administrator  
269-8197



Nancy Harris  
Project Assistant  
269-8168



Beata Smith  
Licensing Examiner  
269-8162

### Alaska Real Estate Statistics 06-01-10 thru 08-20-10

#### New Issues

Salesperson	40
Associate Broker	5
Broker	7

#### Broker Upgrades

Associate Broker	4
Broker	2

#### License by Endorsement

Salesperson	2
Associate Broker	1
Broker	5

#### Active Licensees to Date 2190

Salesperson	1343
Associate Broker	377
Broker	465

#### Inactive Licensees to Date 150

Salesperson	120
Associate Broker	23
Broker	7

#### Active Licensees by City/Borough

Anchorage	1163
Wasilla/Palmer	258
Fairbanks	175
Juneau	59
Kenai	28

## Commission Members

Brad Cole, Chair  
Associate Broker  
Wasilla  
3rd Judicial District



David Somers  
Vice Chair  
Broker  
Fairbanks  
Broker At Large



Nancy Davis  
Broker  
Sitka  
1st Judicial District



Gene DuVal  
Associate Broker  
Fairbanks  
4th Judicial District



Christina Swires  
Associate Broker  
Anchorage  
Broker at Large



Marianne Burke  
Anchorage  
Public Member



Vacant  
Public Member

## EDUCATION

### ► CE Audit Update

The 2010 CE audit was a great success! Out of the 216 licensees audited, only 5 licensees were noncompliant.

However, a few course certificate problems were found through the audit. The types of errors found included wrong course number, incorrect number of hours allowed for the course, and the omission of licensee's/student's name.

Although the sponsor and instructor are responsible for presenting the licensee with a valid certificate, it is the licensee who is ultimately responsible for their continuing education credit hours at renewal time and during an audit. It is always in the licensee's best interest to check the continuing education catalog to make sure that the course they are taking is certified and that the instructor teaching that course is also certified with the Commission. The continuing education catalog can be found on the AREC website at [www.commerce.state.ak.us/occ/prec.htm](http://www.commerce.state.ak.us/occ/prec.htm) for all currently approved education courses.

### ► Instructors/Course Sponsors

There has been some confusion regarding course and instructor approvals. In order for a licensee to receive CE credit, both the course and instructor teaching the course have to be approved by the Commission under the same subject areas. Again, please check the continuing education catalog on the REC web site or call the Commission office if you have any questions.

### ► New Designated Continuing Education Topics

All licensees must complete 20 hours of continuing education (CE) every two years in order to renew their real estate license, 8 hours of designated (DCE) and 12 hours of elective (ECE) CE. Qualifying courses for the current licensing period must be completed February 1, 2010 through January 31, 2012. The **current** approved DCE topics are:

Licensing Relationships (topic 1)- 2 hours  
Prohibited Conduct (topic 18) & Real Estate License Law (topic 25)- 2 hours  
Property Disclosures & Inspections (topic 19) -2 hours  
Ethical Decision Making (topic 30) & Risk Management (topic 33) - 2 hours

## CHANGE OF ADDRESS

Licensees must notify the Real Estate Commission in writing of any address changes. You may send your changes attention Beata Smith by:

**Mail:**  
AK Real Estate Commission  
550 W 7th Avenue, Ste 1500  
Anchorage, AK 99502

**Email:**  
[beata.smith@alaska.gov](mailto:beata.smith@alaska.gov)  
**Fax:** (907) 269-8196

## SURETY FUND CASES

### ▶ **S-29-005, Martin v. Briley**

Ms. Martin did not meet her burden of demonstrating that she suffered losses in a real estate transaction as a result of fraud, misrepresentation, deceit, or the conversion of trust funds or the conversion of community association accounts under the control of community association manager on the part of the real estate licensee Roy Briley. Ms. Martin's claim was denied.

### ▶ **S-29-002 & 003, McAlpine v. Manson**

Mr. Mc Alpine had suffered losses due to licensee Gary Manson's breach of contract, not a result of a real estate transaction or of the conversion of trust funds. Mr. Mc Alpine's claim was denied.

### ▶ **S-10-001, Mungle vs. Paul**

Ms. Mungle did not establish misrepresentation by an affirmative statement of fact or opinion, or by the omission of material factual information. There was no finding of misrepresentation by licensee Shawn Paul. Ms. Mungle's claim was denied.

### ▶ **S-10-003, Humphrey vs. Madden**

Ms. Humphrey did not meet her burden of proof of fraud, deceit, or misrepresentation. There were no findings against licensee Wesley Madden. Ms. Humphrey's claim was denied.

### ▶ **S-10-004, Keirn vs. Gidding**

The delay of Ms. Giddings informing the Kierns that their check had been returned did not cause the harm the Kierns suffered from this failed real estate transaction. There was no finding of fraud, deceit or misrepresentation by licensee Connie Giddings. The Kiern's claim was denied.

### ▶ **S-10-005, Oden vs. Garrison**

Ms. Oden filed her claim more than two years after the potential fraud, deceit, misrepresentation or conversion of trust funds. Ms. Oden's claim was dismissed against licensee Linda Garrison.

## DISCIPLINARY ACTIONS

### ▶ **Lori Schooley, Real Estate Broker; license #B15430, Fairbanks.**

On June 15, 2010, the Real Estate Commission adopted the Proposed Decision and Order issued by the Office of Administrative Hearings in case #3000-06-018 following an administrative hearing. Schooley was found in violation of statutes and regulations for (1) functioning as a licensed assistant at one brokerage (Century 21) while she was licensed as the broker for Coldwell Banker; (2) allowing an employee licensed under her at Coldwell Banker to perform licensed activity at a competing brokerage; (3) dual agency violations for failing to obtain proper written authorization to engage in dual agency; and (4) violation of the conflict of interest statute. The following disciplinary sanctions were imposed: \$4,000 fine, a formal reprimand, and additional education requirements.

### ▶ **Sandra I. Nunes, Salesperson; license #S15852, Anchorage.**

On June 17, 2010, the Real Estate Commission adopted Sandra Nunes' voluntary license surrender. At the time of her surrender, Ms. Nunes was under investigation for engaging in licensed activity while under a one-year license suspension in 2006.

### ▶ **Jerrie Wagner, Broker: license #B16459, Fairbanks**

On 04/06/10, the Commission and Ms. Wagner entered into a Consent Agreement imposing license sanctions concerning allegations that she continued to operate Wagner Realty with a lapsed license. Sanctions included a \$5000.00 fine, formal reprimand, nine hours of education and one year license probation.

## DISCIPLINARY ACTIONS (continued)

▶ **Guadalupe Caro, Salesperson: license #S17029, Anchorage**

On 04/06/10, the Commission and Ms. Caro entered into a Consent Agreement imposing license sanctions concerning allegations that she submitted a falsified biennial license renewal. Sanctions included a \$2000.00 fine, formal reprimand, three hours education and one year license probation.

▶ **Geri Crowley, Associate Broker: license #A11056, Anchorage**

On 03/17/2010, the Commission and Ms. Crowley entered into a Consent Agreement imposing license sanctions concerning allegations that she submitted a falsified biennial license renewal. Sanctions included a \$2000.00 fine, formal reprimand, three hours education and one year license probation.

▶ **Leslie Rae Young, California Broker: CA license #01430215, Volcano, California**

On 08/11/10, Susan Bell, the Commissioner of the Department of Commerce, Community and Economic Development adopted a proposed decision issued by the Alaska Office of Administrative Hearings that a Temporary Cease and Desist order issued to Leslie Rae Young, a California broker, for the unlicensed practice of real estate in Alaska, would be permanent. Per the decision Ms. Young was found to have violated AS 08.88.161 (8)(9)(10) by engaging in real estate activities in Alaska which required Alaska licensure.

▶ **Julie Burns, Broker: license #B15460, Juneau**

On 03/17/2010, the Commission and Ms. Burns entered into a Consent Agreement imposing license sanctions concerning allegations that she engaged in the unlicensed practice of real estate from May 3, 2009 through October 2, 2009. Sanctions included a \$5000.00 fine, formal reprimand, nine hours of education and one year license probation.

▶ **Tracy Jo Sorensen, Salesperson: license #S17670, Anchorage**

On 02/03/10, The Commission and Ms. Sorensen entered into a Consent Agreement imposing license sanctions concerning allegations that Ms. Sorensen established and operated an unregistered brokerage, All Dream Properties, without the knowledge or consent of her broker. Sanctions included a \$3500.00 fine, formal reprimand, three hours of education and six months license probation.

▶ **Edmund Sacapano, Salesperson: license #S16926, Wasilla**

On 02/03/10, the Commission adopted Edmund Sacapano's voluntary license surrender. At the time of his surrender, Mr. Sacapano was under investigation for allegations of conversion of trust accounts, misrepresentation and fraud.

▶ **Jacob Sebring, Associate Broker: license #A17025, Anchorage**

On 02/03/10, the Commission and Mr. Sebring entered into a Consent Agreement imposing license sanctions concerning allegations that Mr. Sebring took out two full page advertisements in the ACS Yellow Pages advertising that he was a real estate broker when he was licensed as a salesperson. Sanctions included a \$1000.00 fine and a formal reprimand.

▶ **Joseph "Bob" Donaldson, Broker: license #B16046, Anchorage**

On 11/17/09, the Commission and Mr. Donaldson entered into a Consent Agreement imposing license sanctions for failing to supervise a licensee. Tracy Jo Sorensen established and operated an unregistered brokerage, All Dream Properties, while under the supervision of Mr. Donaldson. Sanctions included a \$5000.00 fine, formal reprimand, six hours of education and one year license probation.

## New and Amended Regulations

### New and Amended Regulations

(Changes are in **bold**, **italicized** and underlined. Deleted verbiage shows a strikethrough)

#### ► Effective August 18, 2010- (Amended)

##### 12 AAC 64.570. PROPERTY MANAGEMENT OF REAL PROPERTY

- (a) A licensee who has sole ownership of rental property either may manage the property through the licensee's employing broker or may employ another broker or property manager to perform those management duties. Notwithstanding 12 AAC 64.550, the licensee or ***the owner's*** broker ~~performing those duties for the licensee~~ is not required to keep records ***or files*** of rental agreements or rental transactions, if the ***files or*** records are kept by ***the licensee being employed*** another property manager or broker.
- (f) If the property is owned by a partnership, corporation, limited liability company, or other such legal entity in which a licensee has an interest, the licensee must disclose ***a*** the licensee's ownership position and ownership entity ***to the broker***. If one or more licensees ***combined*** have a controlling interest or participate in the day-to-day operation or management of the subject property, the licensees are subject to this section except for (b)(2)(B) of this section. In lieu of compliance with (b)(2)(B) of this section, the financial records and copies of rental agreements for the property must be made available to the licensee's broker for oversight and review.

#### ► Effective June 26, 2010- (Amended)

##### 12 AAC 64.073. FEE SURETY FUND FEE

In addition to the required license or renewal fee, an applicant for licensure or for renewal of a license issued under AS 08.88 shall submit with the application a ~~surety fund fee~~ ***for the fund established under AS 08.88.455*** in the amount of ~~\$55~~ ***\$30***.

#### ► Effective February 5, 2010 - (Amended)

##### 12 AAC 64.061 LICENSE BY ENDORSEMENT

- (c) For purposes of licensure by endorsement, a valid and active license is a real estate license ***that*** which is issued by another state and is equivalent to a license issued by ***this state*** Alaska. ***For the license to be considered active***, ~~active means that~~ the applicant for ~~a an~~ Alaskan license ***in this state*** must have met standards of activity and license status in the other state that are equivalent to the Alaska standards ***in this state*** for active licensure as provided in 12 AAC 64.080, 12 AAC 64.110, and AS 08.88.171. ~~The in addition, the~~ applicant must have worked as a real estate licensee as a principal occupation. ~~Within and, within the six months~~ ***immediately*** preceding the Alaska application ***under AS 08.88, an applicant applying for a***
- (1) ~~An applicant applying for a~~ broker license or associate broker license must ***submit*** provide an affidavit that states that the applicant has, within those six months
- (A) owned a real estate business;
  - (B) been employed as a broker by a corporation or partnership; or
  - (C) been an actively licensed broker or associate broker under another broker; ***the commission***

may

(i) determine that the applicant must provide additional information regarding the applicant's active status by furnishing a report of listings and sales accomplished by the applicant during two or more years within the last three years of licensure immediately preceding application in order to verify that the applicant meets the requirements of this subparagraph; the report must be certified as correct by the broker with whom the applicant has been associated; if due to conditions outside of the control of the applicant, a broker is not reasonably available to certify the report an applicant may request and receive approval from the commission for an alternative manner to provide verification that the report is correct;

(ii) require additional investigation and inquiry relating to the applicant's qualifications under this subparagraph;

- (2) ~~If the applicant is applying for a salesperson license~~ must submit an affidavit that states that the applicant **has**, must have within those six months, been employed by or affiliated with a broker as a salesperson; the commission may require the applicant to submit listings, sales records, or proof of other licensed activities to verify that the applicant meets the requirements of this subsection.

#### 12 AAC 64.068. LEGAL ENTITIES PROFESSIONAL CORPORATIONS

A real estate broker licensed under this chapter may do business as a legal entity professional corporation when organized incorporated under the law of this state.

#### 12 AAC 64.111 CLOSING AN OFFICE - (New)

Before closing an office or branch office, a broker shall submit to the commission

- (1) a completed form for closing an office as prescribed by the commission;
- (2) a bank statement showing a zero balance in the trust accounts or appropriate trust funds documentation;
- (3) the name, address, and phone number of the custodian of records and the location where the transaction record of brokerage for the last three years may be accessed; and
- (4) a completed form for license transfer or change of status as required under AS 08.88.301 and 12 AAC 64.075.

#### 12 AAC 64.180. ESTABLISHMENT OF TRUST ACCOUNT

- (a) Every real estate broker shall establish one or more trust accounts in a federally insured bank or credit union authorized to do business in this state, and the name of the account so established must include the words "trust account" or "trustee account."

#### 12 AAC 64.961. PERSONAL REAL ESTATE TRANSACTION OF REAL ESTATE LICENSEE - (NEW)

In order to meet the requirements of AS 08.88.331, a real estate licensee is not precluded from using the services of a licensee from another brokerage to represent or give specific assistance in a personal real estate transaction of the real estate licensee.

► **Effective March 1, 2010 - (Amended)**

12 AAC 64.110. REQUIREMENTS FOR ESTABLISHING AND MAINTAINING AN OFFICE

(a) ~~Before March 1, 2010, a real estate broker holding an active license shall establish and maintain a principal office. On or after March 1, 2010~~ A real estate broker holding an active license shall establish and maintain a principal office in **this** state. The office in which the broker works and maintains the broker's license is considered the principal office of the broker.

► **Effective February 11, 2009 - (New)**

12 AAC 64.580. LICENSEE WHO PERFORMS COMMUNITY ASSOCIATION MANAGEMENT

In addition to the requirements in AS 08.88.615, a licensee engaged in community association management must

- (1) comply with the provisions of AS 08.88.341, and must include the
  - (A) services provided;
  - (B) fees charged;
  - (C) timeframe of the relationship between the licensee and the entity;
  - (D) consumer pamphlet as provided for in 12 AAC 64.118;
- (2) comply with local, state, and federal laws;
- (3) disclose any conflict of interest as outlined in AS 08.88.391;
- (4) collect funds to comply with 12 AAC 64.180 – 12 AAC 64.271; and
- (5) provide the resale certificate within 10 days of written request under AS 34.08.510 – 34.08.700.

► **Effective April 24, 2009 - (Amended)**

12 AAC 64.010 EXAMINATION

(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 real estate broker, or real estate salesperson. **The written examination consists of a general part and a state part. An applicant must sit for both parts of the written examination during the same examination session.**

12 AAC 64.050 Rescoring. Repealed.

12 AAC 64.110 Requirements for establishing and maintaining an office offices

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

- (1) maintain within the **this** state one or more trust accounts and records of all Alaska real estate transactions **conducted in this state** 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 Minimum requirements for maintaining an office. Repealed.

12 AAC 64.940 Disclosure of Compensation

(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

## New and Amended Regulations- *Continued*

in connection with that transaction.

- (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 ~~licensee~~ within the broker's office.
- (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.~~

### ► Effective August 23, 2009 - (New)

#### 12 AAC 64.128. HOME OFFICES

- (a) A broker in charge of a principal office who permits an associate broker or a salesperson under the supervision of the broker to work out of a home office that is not a principal office or a branch office, must comply with supervision requirements of 12 AAC 64.125.
- (b) An associate broker in charge of a branch office who permits another associate broker or a salesperson under the supervision of the associate broker to work out of a home office that is not a principal office or a branch office, must comply with supervision requirements of 12 AAC 64.125.
- (c) An associate broker or salesperson working out of a home office that is not a principal office or a branch office may not
- (1) give the appearance or impression that the home office is a principal office or a branch office;
  - (2) display a sign at the home office showing the name of the real estate business; or
  - (3) use the address of the home office in any form of advertising, business letterhead, or business cards for the real estate business; the address of the principal office or branch office from which the associate broker or salesperson conducts real estate business must be used in the advertising, business letterhead, or business cards for the real estate business.

#### 12 AAC 64.905. EXCEPTIONS TO REQUIREMENTS FOR REAL ESTATE LICENSE

The exceptions to the requirements of AS 08.88 listed in AS 08.88.900 are limited to the roles or activities specified, and do not allow a person to perform other activities for which a license under AS 08.88.161 is required.

### ► Would you like to be notified of regulation changes?

If you wish to be added to the "Interested Parties List" in order to receive official notification of proposed regulation changes, you must contact the Regulations Specialist, Remigio C. Maiquis Jr. at (907) 465-2537, or by email at [jun\\_maiquis@alaska.gov](mailto:jun_maiquis@alaska.gov).

The Real Estate Commission Office  
will be closed to commemorate  
the following holidays:

**October 18, 2010**  
(Alaska Day)

**November 11**  
(Veterans' Day)

NEXT REAL ESTATE  
COMMISSION MEETING

**September 9 -10, 2010**  
Atwood Building, Ste 1270  
Anchorage

**Public Welcome!**