

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

**MINUTES OF TELECONFERENCE
July 12, 2007**

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled teleconference of the Real Estate Commission was held July 12, 2007, at the Atwood Building, Room 1500, Anchorage, Alaska.

Thursday, July 12, 2007

Call to Order

The Chairperson Gene DuVal 10:05 a.m.

Roll Call

Members present via teleconference constituting a quorum, were:

David B. Somers, Broker at Large, Vice Chairman
Gene DuVal, Associate Broker, 4th Judicial District,
Chairman
Rita Wilson, Associate Broker, Broker at Large
F. Lee Sherman, Public Member
Tim Worthen, Public Member
Brad Cole, Broker, 3rd Judicial

Members Absent

Roger Stone, Broker, 1st Judicial District
(attended via teleconference after vote was taken to
accept MOA for Mr. Harvey)

Staff Present:

Sharon Walsh, Executive Administrator
Nancy Harris, Licensing Examiner
Margo Mandel, Investigator

Guests Present:

Robert Auth, Assistant Attorney General

Guests Present via teleconference:

Duane Harvey, licensee

Poll the Board for a Subpoena

Ms. Mandel wanted to poll the Commission regarding issuing a subpoena in a case involving allegations that a licensee is committing loan fraud by having clients purchasing properties and obtain loans in their names for the licensee to assume ownership. Ms. Mandel said she is looking to issue a subpoena to the title company to get the original contract which the complaints do not have. Ms. Mandel was asking if there was any objection for this subpoena.

Mr. Somers, Mr. Cole, Mr. Sherman, Mr. Worthen, Ms. Wilson and Mr. DuVal had no objections with issuing the subpoena per Ms. Mandel's request.

Memorandum of Agreement – D. Harvey

Ms. Mandel represented the Memorandum of Agreement for Duane Harvey for the Commission's consideration.

Ms. Mandel gave some facts of the case:

- This was a 1999 transaction
- Also surety fund case filed is on appeal
- Findings of intentional misrepresentation in 2003 and recommended Mr. Harvey pay a total of \$12,000 as part of the Surety Fund claim. \$10,000 was paid to the claimant and \$2,000 for hearing cost
- Mr. Harvey has made that payment
- Mr. Harvey appealed the hearing officer's decision
- October 2005 – Superior Court issued an order affirming the decision but reversed part of decision remanded it back to the hearing officer. The part that was reversed was regarding the statute of limitations, regarding the filing of the claim. There is a 2 year statute of limitations in surety fund matters.
- The finding of intentional misrepresentation was upheld.

- Once decision was remanded back, the investigative unit started simultaneous negotiations with Mr. Harvey's attorney to attempt to settle both the surety fund and licensing matter, but that has not occurred.
- Notice of status was issued on June 19, 2007, which indicates that surety fund decision may be dismissed due to the statute of limitations.
- MOA was negotiated to settle the licensing matter only with disciplinary sanctions.

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

RESOLVED to accept the Memorandum of Agreement in case # 3004-04-008.

All in favor. Motion passed.

Question to the Commission

Ms. Walsh presented to the Commission a question from an email that she had received from the Governor's office. The email was regarding an article by Chris Stephens of Bond Stephens and Johnson. The article appeared in the Anchorage Daily News about scrutinizing companies that deal with 1031 Like Kind Exchanges. Mr. Stephens recommended that the Alaska Legislature do what Nevada lawmakers were doing and require licensing and auditing of exchange facilitators. The question was posed to Ms. Walsh if the Commission would back this recommendation that exchange facilitators be licensed and subject to audit?

The Commission members briefly discussed the question as presented.

Commission members did not see a problem with the recommendation but would like to have more time to read the article and discuss the issue before they make a comment.

The Commission asked that Ms. Walsh forward the article to all members for review.

**On a motion duly made by Wilson, seconded by
Worthen, it was**

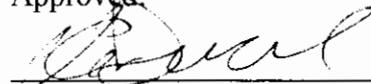
RESOLVED to adjourn the meeting.

All in favor. Motion passes.

Meeting adjourned at 10:20 a.m.

Prepared and submitted by Division Staff.

Approved:



Gene DuVal, Chairperson
Real Estate Commission

Date: 11-12-07