

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

**MINUTES OF MEETING
September 22 and 23, 2005**

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 September 22 & 23, 2005, at the Atwood Building, Room 602, Anchorage, Alaska.

Thursday, September 22, 2005

Agenda Item I Call to Order

Chairperson Barbara Ramsey called the meeting to order at 9:13 a.m.

Roll Call

Members present constituting a quorum were:
Gene DuVal, Associate Broker, 4th Judicial District
Bradley Fluetsch, Public Member
Barbara Ramsey, Associate Broker, 3rd Judicial District
David B. Somers, Broker at Large
Roger Stone, Broker, 1st Judicial District
Rita Wilson, Associate Broker, Broker at Large
Tim Worthen, Public Member

Staff Present:

Sharon Walsh, Executive Administrator
Teresa Thacker, Publications Specialist
Naney Harris, Licensing Examiner

Via Teleconference:

David Brower, Asst. Attorney General, Department of Law

Guests Present (at various times):

Linda Cardoza, Prudential Jack White/Vista Real Estate
Kristen Abegg, AREC Advisory Group
Vern Rush, Broker, The Hometeam
Shellie Buck, President, Platinum Funding Group, Inc.
Anita Bates, Coldwell Banker Fortune
Joan Sheppard, Broker, Sheppard Real Estate School

Commission members welcomed new public member Tim Worthen. Mr. Worthen told the Commission a little about

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himself. He said he has wanted to do some type of public service for sometime and he always enjoyed real estate. He said he was a real estate licensee for a short time but now is in the tour business.

Approval of Agenda

Ms. Walsh goes over some agenda changes, item 7(c) is not yet available, and she would like to add item 10(a) on Friday, with Ms. Strickler joining via teleconference.

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

RESOLVED to accept the agenda as revised.

Approval of Minutes June 12 & 14, 2005

The Commission members made changes to the June 13 & 14, 2005 meeting minutes as follows:

Page 1 – insert Mr. Stone last name.

Page 3, second line down from top, at the end of the line, beginning of the sentence delete the “is”, the next line, delete the word “that”. Tenth line down, end of line, delete the words “with and that”, the next line change the word “were” to “was”. Line 12 delete the words “that question”. Next 3 lines do not make any sense at all. Second paragraph, 8 sentence down delete the words “into the” and replace with “paid from “, third sentence up on second paragraph, change the word “legislature” to “legislative”, last paragraph second sentence, change the word “where” to “were”.

Page 4 – first paragraph, last two sentences don’t make sense.

Page 9- 12 line from the bottom, disciplinary what, 3rd line from the bottom, should be Alaska Administrative Act.

Page 12 – the recap on 12 AAC 64.063 (c)(6), correct the second principals to “principles”. Make sure that section (h) was added to regulation project.

Page 13 – the corrections on 12 AAC 64.095, check if (19) is correct verbiage.

Page 22 – make sure that 12 AAC 64.125 was added to the proposed regulation project. Change the regarding S-25-005 motion to reflect the correct vote, it did not pass unanimously, one member abstained from the vote.

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

**RESOLVED to accept the meeting minutes for the
June 13 & 14, 2005 as revised.**

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Approval of Minutes August 8 & 9, 2005

The Commission members discussed the changes needed in the August 8 & 9, 2005 meeting minutes as follows:

Page 3 – last motion was not passed unanimously, change to show correct vote.

Page 6- check to see if the motion was put in the regulation project.

Page 9- check to see if the second part of the last motion was put in the regulation project.

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

RESOLVED to accept the meeting minutes for the August 8 & 9, 2005 as revised.

Adopt Proposed Regulations

Ms. Harris reads the letter received August 5, 2005 from Mr. Chris Stephens of Bonds, Stephens and Johnson before the Commission reviews the proposed regulations due to its pertinence to the proposed regulations regarding change of ownership found in 12 AAC 64.110(g) This comment was the only public comment in response to the proposed regulations that were public noticed on July 29, 2005.

Commission members reviewed and discussed the proposed regulation 12 AAC 64.110(g) change of ownership.

(g) For the purpose of licensing, the brokerage is closed when a broker stops being an owner of a real estate brokerage by a foreign or domestic corporation partnership, limited partnership or limited liability company. The licensees working in the brokerage would be required to transfer their license to a new brokerage and provide the Commission with a completed application for license transfer and fees established in 12 AAC 02.360.

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

RESOLVED to approve language as revised.

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

RESOLVED to table motion until a later time.

Agenda Item 2

Public Comment

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Linda Cardoza addressed her concerns to the Commission regarding phone calls not being returned, no newsletters and the need for more communication between the REC and the licensees. She was concerned that many licensees were missing out on information and that a newsletter in hard copy form would be very much appreciated.

Joan Sheppard, a real estate broker and instructor addressed the Commission with her concerns regarding an outside corporation called World Leadership Group that is trying to get individuals to receive a Alaska real estate license but have no intention of practicing real estate in Alaska. This company encourages individuals to get their license in Alaska due to the lenient licensing requirements. She said this company is like a multi level referral corporation that is looking for a broker here in Alaska. She is concerned about these individuals that are taking her online course and seeking licensure but do not intend to sell in Alaska. She named a web site www.buckmoore.com. She said she is very concerned for the industry here in Alaska with this type of company.

Ms. Ramsey puts Ms. Sheppard's concern on the agenda for further discussion by the Commission under New Business, Tab 9f.

Ms. Sheppard points out to the Commission that with the license changes with a change of ownership there would also have to be a change of listing.

Anita Bates would like to comment but said in the interest of time that she could address the Commission at later time.

The Commission recessed for break at 10:24 a.m.
The Commission reconvened from break at 10:31 a.m.

Agenda Item 3

Post Licensing Education

Advisory Group Presentation

Kris Abegg, who is representing the ad-hoc Advisory Committee, formally known as the Education Committee, presented to the Commission the Advisory Group's recommendations for post licensing education requirements. See attached letter submitted to the REC dated August 30, 2005 with the recommended changes and deletions of the post licensing education.

Commission members reviewed, discussed and ask Ms. Abegg questions regarding the Advisory Groups recommendations.

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

RESOLVED to adopt the New Licensee PLE outline with following changes as presented by the Advisory Group:

- 1) change hours for Module 1 to 6**
- 2) deleting “and marketing” from Module 5**
- 3) change hours for Module 5 to 2**

All in favor. Motion passes.

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

RESOLVED to adopt the New Broker/Associate Brokers/PLE outline with following changes as presented by the Advisory Group:

- 1) not to accept the recommended change for checklists for Module 2**
- 2) deleting the last 2 additions of Module 3**

All in favor. Motion passes.

The Commission members discussed and made changes to the proposed regulations, 12 AAC 64.067–Minimum education requirements after initial license, 12 AAC 64.071–License renewal, 12 AAC 64.400–Purpose of course certification and instructor approval, 12 AAC 64.410- Minimum course requirements, 12 AAC 64.420-Application for course certification, 12 AAC 64.430–Correspondence courses, 12 AAC 64.440-Instructor approval.

The Commission members discuss the changes to 12 AAC 64.067 and would like the language in 12 AAC 64.067 (c) to also be located in the continuing education section of regulations and in the third sentence, at the end of sentence to change the word “that” to “than”.

12 AAC 64.071- no changes.

12 AAC 64.400 – no changes.

12 AAC 64-410(a) – no changes.

12 AAC 64.110(c)- change: to read: “Regardless of the number of courses taken in a single day,” a student may not exceed credit:

- 1) pre-licensing (including broker upgrade), more than 10 hours of instruction per day

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- 2) continuing education, more than 10 hours of instruction per day
 - 3) post licensing (including broker upgrade), more than 7 hours of instruction per day
- courses to meet the requirements of 08.88.095 and AA 12 64.067.

Ms. Wilson asked a question to the Commission regarding AS 08.88.396(b)(1). Her question was when there is a “for sale by owner” what do you have them (the seller) sign if you are not representing them, confirming that they acknowledge that you are representing the buyer?

The Commission members agreed that AS 08.88.396(f) which reads: “This section applies only to acts that occur before the effective date of this subsection”, is for before the effective date January 1, 2005. Then after that effective date it goes to AS 08.88.615(6). Yes, you would have the seller sign a pamphlet that you are only representing the buyer and that you are providing specific assistance without representation.

The Commission recessed for lunch at 12:00 p.m.
The Commission reconvened from lunch at 1:04 p.m.

Agenda Item 4

Investigator’s Report

Statistics Report

Margo Mandel, the investigator for the Real Estate Commission, presented her statistics report consisting of all open and close cases to the Commission for review.

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

RESOLVED to accept the investigators report.

All in favor. Motion passes.

Litigation Report

Ms. Mandel presented her litigation report with the surrender of Mr. Seward to the Commission for approval.

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

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RESOLVED to direct staff to investigate a policy (small claims, file judgement, garnish PFD, etc) of how to go about collecting funds paid out from the Surety Fund and establish a procedure to follow for the future as noted under AS 08.88.472(c).

All in favor. Motion passes.

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

RESOLVED to accept the surrender of license in case #3000-03-012.

All in favor. Motion passes.

Ms. Mandel speaks to the Commission regarding purchase incentive plans. She states that there is a statute in place that prohibits any licensee from compensating an unlicensed person in course of a real estate transaction. There have been some businesses that have teamed up with licensees and are able to legally offer purchase incentive plans. The most common is the airline miles. Both the buyer and the seller agree to set up an account and they do a direct transfer of the miles from one account to the other and that is permissible under the statutes. Another is Cabella's, a outdoor clothing store, they opened up a in house brokerage with a broker and sales agent that are licensed in the state of Nebraska. They have an online listing service of trophy properties, which consists of recreational remote properties, and their goal is to couple their customers with these types of properties. It is open to all fifty states, agents can list properties on their site and pay a standard annual fee and also pay a portion of the commission to the in house broker, at Cabella's. In turn Cabella offers a retail discount to both the licensee and the person listing the property. There is no exchange between an Alaska licensee and an unlicensed person.

The Commission recessed for break at 1:47 p.m.

The Commission reconvened from break at 1:50 p.m.

Agenda Item 5

Assistant Attorney General – Dave Brower

Education Committee Regulations

Mr. Brower said that if the Real Estate Commission has the authority to have an Education Committee it would have to be done through regulations.

The Commission decides to discuss the education committee regulations at a later time.

Definition of Public Official

There was a question posed to Mr. Brower regarding the definition of a public official that falls under the exceptions in the real estate statutes 08.88.900(4) working and doing their duties. The question was two-fold from Mr. DuVal, 1) Are right-of-way agents exempt from a real estate license because they are working under federal law? 2) If the Real Estate Commission would define public official would that need to be by statute or by regulations? The concerns of the Commission are that the right-of-way agents are asked to give up their real estate license so not to be under the real estate statutes and regulations. Also, that a public official is working with the government agency as a public official, yet they do real estate as their regular duties and were not elected into office.

Mr. Brower said the state has adopted a whole series of the codes of federal regulations regarding the Uniform Relocation Assistance Act. The state statutes say the same thing, that a government agency can be defined as various things, including municipality, which can contract with any person or corporation to provide the services that are required under the federal law. The question is, does the city have to hire a real estate licensee in order to be a right way agent to do the relocation assistance. He says he does not think so. The state statute requires that the state agency do certain things; they can contract to any person or corporation, AS 39.60.090. Mr. Brower said that the right of way agents might relinquish their license due to conflict of interest.

Mr. Brower said that he was not sure and would ask Debra Baer if a definition for public official would need to be through regulation or by legislation and get back to the Commission.

Use of Surety Fund Money by REC & Committee(s)

A question has been directed to Mr. Brower regarding the use of surety fund monies and if it can it be spent for educational committees or publications/newsletters.

Mr. Brower stated statute AS 08.88.450 which says that the amount in the fund may be appropriated for real estate education purposes. The Real Estate Commission is authorized to appropriate money from the surety fund for educational purposes. He said he believes that the REC would need to go through the division on how the money is spent.

RESPA Issue

The question posed to Mr. Brower was, Can a real estate licensee require a person to use a particular service? Mr. Brower states that there is specific language in the federal law and he is not aware of any comparable state law. There is a specific preemption of state law; in other words state law can't allow referrals. The only way is if state law has stricter consumer protection laws then the federal law. The federal RESPA statute won't apply if the state laws are stricter. A broker can have affiliated business arrangements as long as a disclosure is made of the existence and such arrangement to the person being referred, and such person is not required to use any particular provider of a particular service. You can't require a person to use a particular service. Federal law says that you can not require a particular provider or settlement service. What this law is design to do is avoid predatory brokers who then may get a kick back.

Question on New Law (PLE)

Ms. Harris sent an email to Mr. Brower prior to the meeting with the question in relation to the new law regarding post-licensing education effective January 1, 2006. If an individual's application is received prior to January 1, 2006 but they are not issued a license until after January 1, 2006 are they required to complete the post licensing education? Mr. Brower's response to that question was; A license application received can't be effective until it's processed by the Commission staff. There may be some initial license application received before the effective date that may be approved for licensure after the effective date, hence they will have been issued after the effective date and subject to the new education requirements.

The Commission members directed staff to notify instructors and to put information in the newsletter regarding getting applications in early in regards to the new post licensing law. Also, to let them know that it is the issue date and not the received date of initial applications submitted that will determine if that licensee falls under the new law as far as having to complete the post licensing education requirements.

The Commission decided to look at the issue regarding suspensions under the new law at the next meeting.

Mr. DuVal poses a question to Mr. Brower regarding the duties of licensees that are now codified. The common law of agency has been abrogated by statute and the duties are now codified.

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What is your opinion on fiduciary duties, do we or do we not have fiduciary duties?

Mr. Brower said he was not going to answer that question at this time.

The Commission recessed for break at 2:38 p.m.
The Commission reconvened from break at 2:43 p.m.

Agenda Item 1e Con't

Adopt Proposed Regulations

Commission members continued to review and discuss the proposed regulations 12 AAC 64.063, 12 AAC 64.095, 12 AAC 64.110, 12 AAC 64.240, 12 AAC 64.325 and 12 AAC 64.500.

Motion previously tabled is brought back for more discussion.

On a motion duly made by Wilson, seconded by Fluetsch, it was

RESOLVED to amend 12 AAC 64.110(g) for the purposes of licensing, a brokerage is considered closed when a broker:

- 1) stops being a owner of a real estate business or**
- 2) stops being employed as a real estate broker by a foreign or domestic corporation, partnership, limited partnership, or limited liability company. The licensees working in the brokerage would be required to transfer their license to a new brokerage and provide the commission with a completed application for license transfer and the fees established in 12 AAC 02.360.**

[The intent is if something on the license is not longer accurate (example: the previous entity ceases to exist) the license must be reissued.]

All in favor. Motion passes.

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

RESOLVED to amend 12 AAC 64.095 as below:

Amend b - "A real estate broker or licensee may employ an unlicensed person, under their supervision, to perform the following activities related to real estate for which a real estate license is not required under AS 08.88 and this chapter."

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Amend b2 - “ schedule appointments for the licensee, however this does not include telemarketing, or performing other activities to solicit business on behalf of the licensee.”

Amend b5 – “submit and or input listings and changes, as approved by a licensee to a multiple listing service;

Amend b7 – unlock and be in attendance at a property in order that it may be shown by a licensee, so long as the unlicensed person does not answer any questions or offer any information beyond what has been provided in writing by the seller’s licensee;

Amend b11 – act as a courier.

Amend b13 – remove the “a”

Amend b16 – assemble file documents

Amend 12 AAC 64.240(d) – “a letter” changed to “documentation”

All in favor. Motion passes.

The Commission recessed for break at 3:52 p.m.

The Commission reconvened from break at 3:59 p.m.

Agenda Item 3b Con’t

Review and Adoption of PLE Regulations

12 AAC 64.067(b)-

NEW LICENSEE

Module 1- Contracts and Agreements-(6 hours)

Purchase and Sale Agreements

New Construction purchase and sale agreement

Addendum and amendments

Counteroffers

Contingency

Multiple offers

Back up offers

Essential differences between

Residential / Land /Commercial

Module 2 – Property Management- (3 hours)

Landlord Tenant Act

Rental/Lease/Occupaney

Residential

Commercial

Associations

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**Co-Ops
Personal Service Agreements
 Management Agreements
 Lease-Up/Marketing Agreements
Security Deposit Statements**

Module 3 - Licensee Law (2 hours) –

**Consumer Pamphlet & Waiver
Ethics
Surety Fund issues
Confidentiality
Conflict of Interest**

Module 4 - Paperwork & Risk Management (4 hours) –

**Property Disclosure
Mandatory & Area specific
Issues to be aware of:
 Environmental Issues /Zoning / CCR
 Title Reports
 Associations / Resale Certificates / Public Offering
 Statement
 Home Inspections / Repair Negotiations
 Surveys
Record Keeping**

Module 5- Evaluating, Pricing (2 hours) –

**Competitive Market Analysis & Appraisals
Showing property**

Module 6 - Financing to closing (3 hours) –

**The importance and/or differences of:
 Pre-approval letters / pre-qualifications
 Good Faith Estimates
 Loan types (to include Internet lending programs)
 Review of HUD Settlement Statement
 Security deposit transfers and rent prorations
 Seller Net Proceeds
 Other Settlement Statements
 Variations in loan costs
Closing process
Good Funds Law**

NEW BROKERS/ASSOCIATE BROKERS

**Module 1 -Surety Fund, Trust Account & General Accounts
(5 hours) –**

**Surety Fund Issues
 Case studies
 Misrepresentation**

Conversion of Trust Fund
Fraud
Deceit

Trust accounts
 Different types
 How to set up
 How to manage a trust account
General Accounts
Importance of good record keeping

Module 2 - Practical Office Management (4 hours) –

Setting up an office (including but not limited):
 Types of ownership
 Office procedures
 Checklists
 Office policy (general)
 File Review and Management
 Existing / Previous
 Complying with State Requirements
 Licensee relationships manual
Stress on class discussion and participation
 Importance of (including but not limited):
 Keeping current with regulations and statute
 changes
 Fair housing & diversity issues
 Employment contracts with licensee
 How to handle complaints
 Risk Management & Legal Liability
 E&O insurance

Module 3 - Practical Supervision (6 hours) –

Broker Responsibilities
State Requirements
Office policy & procedure manual (state required and
practical application)
Communication
Transaction Management
Final file Review
Licensee Safety
Checklists
Disclosures (including but not limited to)
 License relationship
 Consumer pamphlet & waiver
 Property
 When buying or selling for your/their own account
Strategic alliances/Business relationships - comply with the
law

Module 4 - Risk Management (5 hours) –
Basic office procedures for risk management
Case studies (including but not limited):
 Supervision Failure
 Complaints
 Licensee relationships
 Confidentiality issues
 Conflict of interest
Stress on class discussion and participation

12 AAC 64.420 – no changes
12 AAC 64.430 – 12 AAC 64.470, no changes.

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

RESOLVED to accept the revisions in the post licensing education regulations as sent to Jun dated 09/22/05, 3:00 p.m.

All in favor. Motion passes.

Agenda Item 6

Licensing Examiner's Report
Statistical Report

Nancy Harris presented her statistical report to the Commission. She said that from May 21, 2005 through September 7, 2005 there have been 123 new licensees. The total number of active licensees with a January 31, 2006 expiration date is 2,437.

Mr. Fluetsch asked if staff could provide the statistical report in a graph format.

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

RESOLVED to accept the Licensing Examiner's Statistical Report as presented.

All in favor. Motion passes.

Transfer of Licensees to New Office

Nancy Harris requested an extension of the 30-day period of for two licensees, Hubert Glenzer, #16036 and Jerry Weaver, #3847, due to the late notification of their status from the licensing examiner.

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

RESOLVED to extend the 30-day license period for licensees #16036 and #3847 to August 2, 2005.

All in favor. Motion passes.

Shurig Licensing Application

Ms. Harris presents Samuel Schurig's license application. Mr. Schurig answered "yes" to personal screening question #1.

The Commission members reviewed and discussed Mr. Schurig's application.

Commission members tabled this issue until tomorrow to discuss if they can direct staff to change the application form so that the applicant would have to provide back up information through their broker.

Better Business Practice- If the broker sees a "yes" answer on page 1 of the real estate application they need to "ask".

The Commission directs staff to ask the AG if they can make the broker aware of a "yes" question on licensee's applications.

The Commission directs staff to change the application forms with boxes on the front pages that the employing brokers must initial so that they will be aware of the new licensees answers to the personal screening questions.

On a motion duly made by Wilson, seconded by Fluetsch, it was

RESOLVED to accept Samuel Schurig's application for real estate salesperson.

6 members in favor, 1 member opposed. Motion passes.

The Commission direct staff to ask Mr. Brower if they can send a letter to the broker informing them that their new licensee has answered a yes question.

Ragsdale Licensing Application

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Ms. Harris presents Sacha Ragsdale's license application. Mr. Ragsdale answered "yes" to personal screening question #1.

Commission member Wilson recuses herself from this issue.

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

RESOLVED to accept Sacha Ragsdale's application for real estate salesperson.

6 members in favor, 1 member recused. Motion passes.

Remote Site Supervision- R Wilson

The Licensing Examiner presents the request for remote site supervision of a licensee Rebecca Wilson in Haines submitted by Mike Race of Coldwell Banker Race Realty.

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

RESOLVED to accept the remote site supervision request for R. Wilson.

All in favor. Motion passes

World Leadership Group Concerns

The Licensing Examiner brings to the Commission's attention her concerns regarding the World Leadership Group brought to her attention by Joan Sheppard. Ms. Harris said that she has been receiving a lot of calls from brokers who are interested in getting licensed in Alaska but do not want to have an office in the state. She wanted to make the Commission aware of the increased interest in brokers requesting how they could be licensed in Alaska but not wanting to have a physical office here.

Agenda Item 7

Executive Administrator's Report

**Real Estate Revenue/Expenditure
Surety Fund Report**

The Commission members reviewed and discussed the Real Estate Revenue/Expenditure Report and the Surety Fund Report as presented.

Ms. Walsh directed the Commission members to the key to the Financial Report can be found within the Annual Report.

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Ms. Walsh asked if it would be acceptable to email the Commission members the balance of the Surety Fund Balance Report when she receives it. The Commission members agreed it would be acceptable.

Mr. Fluetsch asked Ms. Walsh what was the expense in FY05 for supplies.

The Commission directed staff to ask Ms. Strickler how she comes up with the Surety Fund budget?

The Commission directed staff to add a new column on the Surety Fund Claim Activity Report showing exactly what final decision was made under fraud, deceit, misrepresentation, or conversion of trust funds.

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

RESOLVED to accept the Executive Administrator's Report.

All in favor. Motion passes.

Review of Annual Report

The Commission members reviewed and discussed the FY05 Annual Report.

The Commission directed staff to send a letter to the chief investigator requesting that the penalties on future requests should be a maximum to allow the REC flexibility (to include suspensions).

Key for Financial Report

The key to the Financial Report is within the FY05 Annual Report. The key breaks down what services are covered in each of the categories (personal services, travel, contractual, supplies and equipment) listed on the report.

Gayle Horetski's Email

The Commission members reviewed and discussed the email received from Assistant Attorney General Gayle Horetski in

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answer to the Commission's question from the prior meeting. The Commission asked if a licensee is involved in a Surety Fund claim is that licensee automatically suspended? Ms. Horetski's said that a licensee suspension is not automatic; see AS 08.88.071(b).

The Commission directed staff to have an extra board book available at each meeting for the public's use.

Agenda Item 7

Education/Publication Specialist Report

Review of Publication Forms

Ms. Thacker reviewed with the Commission members the changes in the Instructor application, the Course approval application, the postcard for course renewal and an informational pamphlet for general and surety fund complaints.

Regulation Changes/Housekeeping

Ms. Thacker presented her recommendations for regulation changes to the Commission members for review and approval. She requests that 12 AAC 64. 500(j)(1) and (2), regarding the prorating of continuing education hours, be deleted. The Assistant Attorney General recommendation states that the regulation is in conflict with AS 08.88.091(d) and the statute does not give authority to prorate continuing education for licensees who have held their licenses for less than a full licensing period.

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

RESOLVED to accept staff recommendations regarding 12 AAC 64.500(j).

All in favor. Motion passes.

Ms. Thacker recommended the changes in AAC 02.360 regarding Elimination of Selected Fees. She recommended that AAC 02.360 (b)(4) course revision fee, separate from biennial course recertification, \$25 per application and (c)(2) examination preparation packet, \$30 be eliminated. She explained that the instructor should not be penalized for submitting updates to their courses irrespective of the re-certification deadline and that the exam packet did not exist anymore.

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

RESOLVED to accept staff recommendations regarding 12 AAC 02.360 Elimination of Selected Fees.

All in favor. Motion passes.

Proposed Train the Trainer (mid-level)

Ms. Thacker presented a proposal of a mid-level train the trainer class to the Commission for their review and discussion.

On a motion duly made by Wilson, seconded by Fluetsch, it was

RESOLVED for staff to develop recommendations regarding more advanced train the trainer class and bring back specifics regarding implementing and survey of instructors.

All in favor. Motion passes.

Course/Instructor Statistics Report

Ms. Thacker presented her statistics report of approved courses from July 2005 through September 2005.

Web Site Updates

Ms. Thacker presented to the Commission the updates to the Real Commission web site. She reviewed the complaint form that was added to the web site that can be completed and submitted on line and it will go directly to the investigator. She presented the most downloaded files of the Occupational Licensing web site and noted that the landlord tenant publication was the most downloaded form.

Promissor Test Development Update

Ms. Thacker updated the Commission on the test development project. She explained that the update of the exam would reflect the new laws on November 1, 2005. The Promissor Candidate Handbooks will show changes at that time as well. The exam score sheets that the candidates receive when they passed the exam will also change from three score sheets to only one score sheet on November 1st.

Mr. Stone brought to the Commission's attention a problem regarding testing in Ketchikan through Promissor with the

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computer and/or server going down several times during an exam and not allowing the candidates another time to re take the exam.

The Commission directed staff to give them a status of Promissor's response and/or solutions in regards to future problems.

**Alaska Commission on Postsecondary Education (ACPE)
Course Exemption**

Ms. Thacker presented to the Commission the requirement through the ACPE of all education courses to determine their exemption from authorization to operate in Alaska.

The Commission did not see the need for the courses through the Real Estate Commission to be required to go through the exemption process at the ACPE because their courses are strictly for the approval of professional licenses.

The Commission directed staff to send a letter to ACPE that the REC will not require instructors to complete their form.

The Commission members discussed the uniformed evaluation forms and directed staff to email a uniform evaluation form to commission members for review and approval and than make it available as one of the download forms. They also directed staff to pick up evaluation forms from classes that the Commission members attend.

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

RESOLVED to adopt the Education/Publication Specialist's report.

All in favor. Motion passes.

The Commission recessed at 6:00 p.m. until Friday at 8:30 a.m.

Friday, September 23, 2005

Call to Order

Chairperson Barbara Ramsey called the meeting to order at 8:35 a.m.

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Roll Call

Members present constituting a quorum were:

Barbara Ramsey, Associate Broker, 3rd Judicial District
Tim Worthen, Public Member
Roger Stone, Broker, 1st Judicial District
Rita Wilson, Associate Broker, Broker at Large
Gene DuVal, Associate Broker, 4th Judicial District
Bradley Fluetsch, Public Member
David B. Somers, Broker at Large

Staff Present:

Sharon Walsh, Executive Administrator
Teresa Thacker, Publications Specialist
Nancy Harris, Licensing Examiner

Via Teleconference:

Jenny Strickler, Chief/Acting Director, Division of
Corporations, Business and Professional Licensing.
David Brower, Asst. Attorney General, Department of
Law
Jun Maiquis, Regulation Specialist, Division of
Corporations, Business and Professional Licensing

Guests Present (at various times):

Linda Cardoza, Prudential Jack White/Vista Real Estate

Agenda Item 9

New Business

The Chairperson, Ms. Ramsey, read an email received on September 23, 2005 from Anita Bates as public comment regarding conflict of interest, agency and dual agency still in regulations and the increase of mediation/arbitration.

The Commission discussed the points in Ms. Bates email. The question regarding agency and dual agency still in regulations would be a good FAQ on the website to direct licensees to the regulation 12 AAC 64.396(f) for clarification. The question regarding mediation is not in the REC's purview but is with the association or the local boards. The question regarding conflict of interest is pretty clear the way the statute reads.

Linda Cardoza says that if at least one person is a member of the association mediation can go through.

The Commission discussed the email from Mr. Feekin to Mr. Brower regarding specific assistance.

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

RESOLVED to notify all instructors that the REC Better Business Practice is to sign prior to initial showing.

All in favor. Motion passes.

The Commission directed staff to put the Better Business Practices on the web site.

Agenda Item 5 con't

Education Committee Regulations

On a motion duly made by Fluetsch, seconded by Wilson, it was

RESOLVED that the Alaska Real Estate Commission to create an education committee in compliance with the Alaska Statutes and with the Administrative Procedures Act.

6 members in favor; 1 member opposed. Motion passes.

The Commission members reviewed, discussed and made changes to the Education Committee Regulation proposal.

Membership:

Max 10 min 6
No criteria of license or not
One Commission member/liaison
No regional preference
Appointed by the Commission

Responsibilities & Duties

More than recommendations, provide background and research
Additional duties as directed and assigned by the Commission

Selection Criteria

Broader
Professionals
Delete "an" in #2

Appointments

No term limits
At the pleasure of the Commission
3 year term starting at the September meeting

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Initial appointments 3?

The Commission recesses at 10:04 a.m.
The Commission reconvened at 10:09 a.m.

Commission members discontinued discussing the proposed Education Committee Regulations to briefly speak with the Regulation Specialist, Jun Maiquis, regarding proposed regulations before the Commission.

On a motion duly made by Fluetsch, seconded by Wilson, it was

RESOLVED that the PLE regulations as amended be sent out for public comment.

All in favor. Motion passes.

Agenda Item 10

Real Estate Financial Overview

Jenny Strickler, Acting Director and Chief of the Division of Corporations, Business and Professional Licensing presented the Real Estate Financial Overview to Commission. She explained that the Financial Overview is the process in which they use to determine whether to increase or decrease fees or to keep them the same. It is based on the data of the prior two fiscal years. The Commission members reviewed, discussed and directed questions to Ms. Strickler regarding the financial report. Ms. Strickler's recommendation for the next licensing period was \$340.00 and to leave the surety fund fee as is.

Mr. Strickler addressed Mr. Fluetsch's question regarding why supplies went up. She said the increase was due to the purchase of the two laptops. She explained that when you purchase small equipment that is under a certain dollar amount it gets coded to a extended level under supplies rather than equipment because it is actual equipment and not considered capital outlay.

Mr. Stone recommended changing all the subsequent fees processed other than the \$350.00 and the \$125.00 to \$50.00 instead of \$30.00.

Mr. Fluetsch asked Ms. Strickler a question on how the REC budget is created especially out of the surety fund. How would the Commission go about getting that \$30,000 publication expense put into the surety fund budget? How would the REC \$30,000 for education be put into the budget and approved by the legislature?

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Ms. Strickler said that you would need to consider changing the total amount of the surety fund authorization that would have to go as a form of an increment in the state budget system. However, if you want to stay within your current appropriation to the surety fund but you want to specify that \$30,000 of it will be specifically for education you can do that and they will repeat that in the budget and that should not create any problems.

The Commission members speak with the Assistant Attorney General Dave Brower via teleconference regarding if an associate broker would be required to complete post-licensing education if an individual was an associate broker prior to January 1, 2006.

Mr. Brower stated that an associate broker issued a license prior to December 31, 2005 does not need to take post-licensing education to become a broker.

Agenda Item 10a

Address Renewal Fee Recommendations

On a motion duly made by Fluetsch, seconded by Wilson, it was

RESOLVED to accept the proposed fees as amended for the next biennial year.

6 member in favor; 1 member opposed. Motion passes.

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

RESOLVED direct staff to increase the surety fund request by \$50,000 for the purposes of doing a newsletter and educational needs as determined by the REC.

**3 members in favor (Wilson, DuVal, Fluetsch);
4 members opposed (Stone, Worthen, Somers, Ramsey).
Motion failed.**

The Commission directed staff to send a letter to all instructors asking them to announce at the beginning of each class and for the REC to include on each renewal form and new license applications information regarding the REC's new information. To include the new information regarding the web site, list serve potential, to remove cache of old web site, and information on the location of the agenda, meeting schedule, minutes, newsletter buttons and headers on the side. Also, to include on the renewal

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forms a check box for licensees to check if they would like information on the list-serve or information emailed to them. The Commission also asked staff to contact the local Boards at 6-month intervals and ask them to re-send the web site information out to all their members.

The Commission directed staff to go through the process of requesting newsletter and publication funds per directives in division's policy and procedures.

On a motion duly made by Fluetsch to direct staff to increase the surety fund request by \$20,000 for the purposes of doing a train the trainer classes, a newsletter and education needs as determined by the REC.

Motion failed due to lack of second.

The Commission directed staff to determine how to offer a one-time incentive to reduce fees by offering a one-time only online renewal if licensee signs up for list serve.

The Commission recessed for break at 12:04 a.m.
The Commission reconvened at 12:32 a.m.

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

RESOLVED send out the PLE regulations as amended for public notice.

All in favor. Motion passes.

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

RESOLVED to amend proposed regulation specifically 12 AAC 64.325(c) to include "If interest is awarded the appropriate rate to be applied as stated in AS 08.88.470."

All in favor. Motion passes.

Set 8 Hours of Designated CE

The Commission members discussed the issues regarding designated continuing education hours for the 04 –06 renewal period.

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

RESOLVED that the eight hours of designated continuing education classes (DCE) for 2006-2008 (per 12 AAC 64.500 (b)(1)) are as follows for Real Estate Sales, Commercial Sales, Community Association Management, and Property Management:

Ethical Decision making – 2 hours (Topic 30)
Risk Management – 2 hours (Topic 33)
Contracts – 2 hours (Topic 6)
License Law – 2 hours (Topic 25)

All in favor. Motion passes.

Set December/March/June Meeting Dates

The Commission members decided on the dates and locations of the next three Commission meetings.

The December meeting will be held in Anchorage, as a one-day meeting, on Thursday, December 1, 2005 with a potential second day meeting on December 2, 2005 if needed.

The March meeting will be held in Juneau on Monday and Tuesday, March 13 & 14, 2006.

The June meeting will be held in Fairbanks on Monday and Tuesday, June 12 & 13, 2006.

Review Letter from Kent Sullivan

The Commission members reviewed and discussed the letter from attorney Kent Sullivan regarding SEAMLS Agreement to Purchase and Earnest Money Receipt, revised Dec 2004.

The Commission directed staff to write a letter to Mr. Sullivan thanking him for his letter; but to let him know that this is not within the authority of the REC and recommend that he forward his concern to the SEAMLS for their legal counsel's review.

Landlord Tenant Booklet

Staff asked the Commission if they would like to continue to publish the landlord tenant booklets? The landlord tenant booklets are available online and the REC charges \$1.00 per

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copy. The Department of Law developed the landlord tenant booklet and does not want to charge the public for the booklet. The staff said that if they copy it as is, with all the folded portions, it will cost the REC \$6.00 per booklet.

The Commission members discussed the options of the printing the Landlord Tenant booklets.

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

RESOLVED that the REC print 1,000 copies of the Landlord Tenant booklets approximately 8 x 10, double faced), pay for expenses out of the surety fund and charge \$5.00 per copy.

6 members in favor; 1 member opposed. Motion passes.

Commission directed staff to inform DOL that they can pay \$5.00 per landlord tenant booklet or they can print from the REC web site.

The Commission recessed for break at 1:45 p.m.
The Commission reconvened from break at 1:55 p.m.

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

RESOLVED to amend 12 AAC 64.360 (c)(1) to read "information pamphlet on landlord and tenant rights, \$5."

All in favor. Motion passes.

Hurricane Katrina

The Commission members reviewed and discussed an email received by the Division on September 11, 2005 and directed through Jennifer Strickler regarding the consideration of offering reciprocity to those realtors affected by hurricane Katrina from Louisiana, Mississippi, and Alabama should they request licensing in Alaska.

The Commission directed staff to review the education and licensing requirements of Mississippi, Louisiana and Alabama to see if they meet the Alaska minimum criteria. If they do meet our minimum criteria, notify the effected real estate commissions and respond to the inquiry on file.

World Leadership Group Concern/Internet

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The Commission members discussed the World Leadership Group and the Internet concerns brought to them during the public comment period.

Mr. Fluetsch requests for a full time funded position due to the ramifications of Internet real estate businesses.

The Commission members directed staff to ask the AG for the potential of predatory/fraudulent Internet activity. What is our responsibility? How do we protect the public from being victims? Examples are in Mr. Royce's materials from August meeting. (Buckmoore.com, World Leadership)

Election of Officers

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

RESOLVED to nominate Barbara Ramsey as chair.

All in favor. Motion passes.

Barbara Ramsey continues as chair of the Real Estate Commission.

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

RESOLVED to nominate Rita Wislon as education liaison.

All in favor. Motion passes.

Rita Wilson continues as education liaison of the Real Estate Commission

On a motion duly made by Wilson, seconded by Fluetsch, it was

RESOLVED to nominate Dave Somers as Vice Chair.

All in favor. Motion passes.

Dave Somers is the new vice chair of the Real Estate Commission.

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Old Business

Ms. Ramsey pointed out that Ms. Wilson and staff are still working on a new evaluation form to be available online.

Ms. Ramsey said the broker manual is still being edited and will be available for the December meeting for review and comments.

Mr. Fluetsch asked if Mr. Somers would consider attending the next ARELLO conference as vice chair.

Ms. Ramsey reminded the Commission members about the ARELLO conference in March/April of 2006 that will be held in Jacksonville, Florida. She asked them to think about if they would like to attend or whom they would like to attend.

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

RESOLVED to adjourn the meeting.

All in favor. Motion passes.

Meeting adjourned at 2:17 p.m.

Prepared and submitted by Division Staff.

Approved:



Barbara Ramsey, Chairperson
Real Estate Commission

Date: 12/01/05