

REAL ESTATE COMMISSION
MEETING MINUTES

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a licensed. Money is coming from the commissions. The Broker is paid; the commission is dispersed to the non-licensee. Mr. Somers stated that the law whether it's stated clearly or not it implies that the brokerages can receive checks from Title companies as legal entities because it says brokerages can be legal entities. Mr. Somers didn't think that licensees could hold themselves out as legal entities-unless it clears the legal department. Ms. Burke doesn't want to give the impression that the Commission is providing tax advice on legal entities. Ms. Davis and Ms. Swires both stated that they didn't see a problem with paying the licensee's legal entity.

On a motion by DuVal , seconded by Swires, and passed, it was

RESOLVED to move for public comment proposed regulation 12 AAC 64.068.

**DuVal, Burke, Flyum, Swires, Davis in favor; Mr. Somers opposed.
Motion passed.**

Brokerage Violations of Outside Brokers, Agenda Item 11(d)

Discuss letter received from Prudential Jack White Vista Broker Gregg Gunnarson conveying his concerns about brokerage offices that are basically "broom closets" but their real office is outside the state and they potentially have never set foot in the state. Mr. DuVal stated that the new language in the proposed regulations may tighten this process and deal with the concern for commerce in the form of commissions leaving the state. Ms. Walsh indicated that she met with Mr. Gunnarson, Mr. Johnson and Mr. Woods who primarily work in commercial real estate. Mr. DuVal thinks that the new regulation that is proposed today will address their concerns. 12 AAC 64.990 defines the term "within the state".

Making of Transactions 08.88.331, Agenda 11(e)

*Start
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discussion*
Ms. Jaquie Rosenthal, Broker of ReMax Associates of Fairbanks and North American Properties requested that the Commission consider allowing for her to go back and forth between her two brokerages. Mr. Somers said her question is really can she co-list? Because, person from office A can't walk across the hall to office B and work without co-brokering. Everyone has to have their own files. Chairman Cole said he didn't think she was asking to co-list. He thought Ms. Rosenthal was asking to engage in management contracts with licensees. He indicated that there is language in our regulations (statute) now that you can hire another licensee with a management agreement between that Broker and the licensee and you and that licensee can work for you in your office.

Commission members stopped discussion to address issues with Chief Investigator Quinten Warren.

On a motion by Davis, seconded by Swires, and passed unanimously, it was

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RESOLVED to go into Executive session Per AS 44.62.310(c) (2).

All in favor; Motion passed.

Into Executive Session: 3:05 p.m.
Out of Executive Session: 4:03 p.m.

On a motion by Davis, seconded by Swires, and passed unanimously, it was

RESOLVED to come out of Executive session

All in favor; motion passed.

Making of Transactions 08.88.331, Agenda Item 11(e) - Continued

Cont'd
Chairman Cole asked the Commission members to look at 08.88.398 Licensed Assistant. He interpreted the statute as allowing for a Broker to hire a licensed person through a contract with that licensee's current Broker. Mr. Somers said maybe it means that, however Mr. Somers indicated that it was put in place by the Legislature to allow for team members to pay a licensee within that team-within that same office. Mr. DuVal said we could go on about this issue for a long time and instead asked that the members look at 08.88.331 Making of a Transaction and answer Ms. Rosenthal's question. Mr. Somers stated that you can't crossover he referenced 08.88.291 that a licensee can do real estate business "only through a principal office or from a branch registered by the broker by whom the licensee is employed." Chairman Cole disagreed with Mr. Somers interpretation of 08.88.398. Mr. DuVal asked the members to focus on Ms. Rosenthal's question and provide her with the answer. Mr. DuVal stated that co-listing was okay. Members said this is acceptable. Brokerages are allowed to co-list. All laws must be followed and consumer pamphlets need to include all licensees involved. Mr. DuVal stated that the lessor would need to agree to both companies involved in leasing the property? Mr. Somers indicated yes and the Broker needs to get the thought out of her head that another licensee from the other company can "go over and help out at the other company". Mr. DuVal stated that there needs to be separate records for each company. Ms. Rosenthal will be advised that brokerages are allowed to co-list properties but their records must be maintained properly and all laws followed by each office. AREC consumer pamphlet will need to list every licensee involved so the seller can see who is representing them. There is no cross-over on maintenance of the files either.

Regulations for Recovery Fund, Agenda Item 11(f)

Commission members reviewed the proposed regulations for approval to continue through the regulation process.

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RESOLVED to come out of executive session

All in favor; Motion passed.

Out of executive session 1:10 p.m.

On a motion duly made by Mr. DuVal, seconded by nobody, it was

RESOLVED to move into executive session Per AS 44.62.310 (c)(2) to speak with Gayle Horetski, Assistant Attorney General.

Motion was withdrawn.

Agenda Item 7b cont.

New Applicants

Kristy Miller

Ms. Horetski introduced herself and thanked the Commission members for taking their time to speak with her. Ms. Wall-Rood gave a quick review of Kristy Miller's application by endorsement regarding the statutes pertaining to that seven years must have lapsed from the date a person completed their sentence imposed upon conviction. Ms. Horetski stated that since the sentence was set aside, in reality there was no sentence. If there is no sentence, the seven years does not apply. Ms. Horetski along with the Commission members reviewed statute 12.55.085 provided by Ms. Wall-Rood which was obtained from the Alaska Legal Resources. Ms. Horetski stated that this is a legal issue and should be researched. She also suggested that the application either should be tabled until the next meeting or grant the application. Ms. Walsh asked if a mail ballot or a teleconference at a later time would be appropriate. Ms. Horetski stated that it is up to the Commission members if they have reviewed the application and came to a decision, the only hesitation is the legal issue that might be okay. Mr. Somers asked if we can throw the seven years issue out or it would be seven years from the conviction if there is no sentence. Ms. Horetski stated that there was no sentence upon the conviction and if the Commission is comfortable with the interpretation that there was no sentence imposed then there is no seven years restriction.

Agenda Item 8a

Statute Review 08.88.398 License Assistant

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Ms. Horetski reviewed statute 08.88.398 and House Bill 33 with the Commission regarding a licensed assistant. Ms. Horetski stated that in the statute it doesn't say that there are two different brokers involved. This language was adopted in 1998, in Section 32, Chapter 45. It was originally introduced in 1997 and the language on License Assistant in Section 398 was not in the bill. A series of hearings were held and there was a break in the session. The next version of the bill, which was adopted January 1998 at the next Legislative session, the changes were incorporated over the interim and in that version of the bill the language appeared. In other versions of the bill the language was repeated, it was not altered. Since there is no copy of the memorandum file, all they have to go by is sectional analysis, the bill itself and the statement from the Chair at that time as to what this means. Ms. Horetski apologizes to the Commission that she is not able to provide much assistance regarding this matter.