

1
2 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
3 THIRD JUDICIAL DISTRICT AT ANCHORAGE

RECEIVED

OCT 19 2016

LAW-CIVIL-ANC

4 SHANE O'HARE,)
5 Appellant,)
6 vs.)
7 ALASKA REAL ESTATE)
8 COMMISSION,)
9 Appellee.)
10 _____)

CASE NO. 3AN-15-06467 CI

11 APPELLEE'S NOTICE TO THE COURT IN COMPLIANCE WITH THE COURT'S
12 ORDER ON REMAND

13 By Order dated March 29, 2016, the court remanded this matter to the Real
14 Estate Commission (Commission) "for a fuller explanation of why it imposed the
15 discipline that it did." Order at ¶7. The Commission met on September 21, 2016, and
16 passed a resolution putting on the record its decision and the reasons why the
17 Commission made the decision it did. The minutes reflecting the substance of the
18 resolution were approved by the Vice Chair of the Commission on October 4, 2016. The
19 draft minutes are attached hereto as Attachment A; the formal minutes with approval are
20 attached as Attachment B. These attachments fulfill the terms of the court's March 29,
21 2016 Order. It is anticipated that the parties will proceed with the terms set out at ¶8 of
22 the Order, respecting responses and reply.

23 Dated this 14th day of October, 2016, in Juneau, Alaska

24 JAHNA LINDEMUTH
25 ATTORNEY GENERAL

26 By: 

Harriet Dinegar Milks
Assistant Attorney General
Alaska Bar No.: 0610113

Case: 14-1114REC decision review – 7(a)

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On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it was,

RESOLVED to put on record the Commission's determination and basis for that determination in case #14-1114REC,

In accordance with AS 44.64.060 (e)(3), the Commission revises the enforcement action, determination of best interest, order, award, remedy, sanction, penalty or other disposition of the case as follows:

- That the real estate license be suspended for 365-days;
- That the licensee shall be on probation to run concurrently with the licensee's federal probation;
- Any conduct that leads to the determination of a violation of the licensee's probation will be a sanctioned offense and the Real Estate Commission (REC) can impose additional sanctions as appropriate;
- During this time the licensee is required to complete 18 hours of continuing education. The education required by this order shall be in addition to any education the licensee is enrolled in for completion of educational requirements and cannot be counted toward any license renewal. The curricula of the 18 hours shall be approved by the Commission's agent before the licensee registers for the course and shall include topics as determined by the Commission's agent. The licensee is to bear all costs to the education required by this order. It is recommended that the licensee attend one or two REC quarterly meetings and receive continuing education credit in the amount of one hour and can be used as an offset to the 18 hour education requirement.

The reasonable basis for the one-year suspension is as follows:

- 1) Facts were considered as a whole, not individually, when the Commission made its decision. [O'Hare engaged in conduct of which the commission demonstrating licensee's unfitness to engage in the real estate business.]
 - a. He allowed another to use his property to receive drugs for the benefit of someone else. Not only once but on multiple occasions. He then delivered the drugs to the person and in return received a few of the pills. He was told the drugs were not illegal but did not explain why he allowed Gattis to use his UPS box to allow for delivery.
 - b. He did not question the legality of the drugs – he simply stated Gattis told him the drugs were not illegal.
 - c. He stopped allowing use of his UPS Box by the individual after the death of a person taking such drugs. He did not, however, report Gattis to law enforcement regarding his involvement in the death of Matthew.
 - d. He learned that someone was having a medical emergency (associated with drugs) and did nothing. No 911 call and no call for medical help.
 - e. He pled guilty to knowingly and intentionally possessing a controlled substance with the intent to distribute it to another person.

465 f. He only told the truth about his involvement with drugs, Gattis and Matthew
466 once law enforcement officials began the investigation.

467 Trustworthiness, good judgment, and fitness to conduct business are essential to a real
468 estate licensee. Self-policing is essential in the real estate business. One needs to take
469 responsibility for their actions. One needs to ask questions not only for the benefit of the
470 client but also the public. Avoidance of the truth easily results in bad judgment in the
471 opinion of the Commission.
472

473 His youth (25 years) does not discount his actions. He committed the above acts in 2012
474 and at the same time applied for a real estate license. In 2014, he was convicted
475 conspiracy to distribute a controlled substance. Indeed the Commission was concerned
476 that sufficient time had not elapsed for O'Hare to evolve and understand his bad judgment
477 and criminal behavior. Bad judgment did not occur simply once or twice but multiple times.
478 And the bad judgment did not simply relate to receipt and distribution of drugs, but also a
479 failure to call emergency services to assist an individual, which was represented to be
480 "overdosing" on drugs.
481

482 Suspension of O'Hare's real estate license for one-year by the Commission was
483 reasonable based on the above.
484

485
486 **Commission members in favor Ms. Cartledge, Mr. Bushnell, Ms. Harvill, and**
487 **Ms. Burke. Ms. McConnochie recused herself from the voting on this issue.**
488

489 **Motion passed.**
490

491
492 CE Audit Issues (Paralegal info) - 6(d) and Consent Agreements – 4(b)
493

494 **On a motion duly made by Mr. Bushnell, seconded by Ms. Harvill, it was,**
495

496 **RESOLVED** that they go into executive session in accordance with AS
497 44.62.310(c), for the purpose of discussing subjects that tend to prejudice
498 the reputation and character of a person.
499

500 **All in favor; Motion passed.**
501

502
503 The Commission went into Executive session at 3:14 p.m.
504

505
506 **On a motion duly made by Mr. Bushnell, seconded by Ms. McConnochie, it**
507 **was,**
508

509 **RESOLVED** that they come out of executive session.
510

511 **All in favor; Motion passed.**
512

513 The Commission came out of Executive session at 4:32 p.m.
514
515

Alaska Real Estate Commission Meeting Minutes for September 21, 2016

On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it was,

RESOLVED to put on record the Commission's determination and the basis for that determination in case #14-1114REC,

Resolution to adopt decision in OAH case 14-1114-REC. In accordance with AS 44.64.060 (e)(3), the Commission revises the enforcement action, determination of best interest, order, award, remedy, sanction, penalty or other disposition of the case as follows:

- That the real estate license be suspended for 365-days;
- That the licensee shall be on probation to run concurrently with the licensee's federal probation;
- Any conduct that leads to the determination of a violation of the licensee's probation will be a sanctioned offense and the Real Estate Commission (REC) can impose additional sanctions as appropriate;
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IN THE FOR THE STATE OF ALASKA

SHANE O'HARE,)
Appellant,)
vs.)
ALASKA REAL ESTATE)
COMMISSION,)
Appellee.)

CASE NO. 3AN-15-06467 CI

CERTIFICATE OF SERVICE

I certify that on this date true and correct copies of the Appellee's Notice to the Court in Compliance with the Court's Order on Remand, Attachment A, Attachment B and this Certificate of Service were served via U.S. Mail on the following:

Steven M. Wells
Steven M. Wells, P.C.
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 10-14-16
Margojean Bradley Date
Law Office Assistant

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