

MINUTES

A meeting of the Alabama Real Estate Commission was held April 20, 2017, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Steve Cawthon; Commissioners Carole Harrison, Cindy Denney, Clif Miller, Vaughn Poe, Danny Sharp and Nancy Wright; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; and Investigators David Erfman, Chuck Kelly, K. C. Baldwin and Rickey Fennie. Commissioner Reid Cummings was absent with notice. The Hearing Officer was Jim Hampton.

Other staff members in attendance for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, IT Manager Brett Scott, IT Systems Specialist Steven Brown, Education Director Ryan Adair, and Licensing Administrator Anthony Griffin.

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:00 a.m. and a quorum was declared.

Chairman Watts requested an amendment to the March 23, 2017 meeting minutes. Commissioner Denney's votes on two requests made by Hugh T. Praytor III regarding his January 19, 2017 hearing were changed from yes votes to abstentions. Commissioner Denney was not present for Mr. Praytor's January 19 hearing on Formal Complaint #3400 and; therefore, could not vote on his requests at the March 23 meeting. Commissioner Harrison made a motion to approve the March 23, 2017 minutes as amended. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Executive Director Patricia Anderson presented the March 2017 financial report. Revenues continue to show an increase over last year due to the continued increase in the number of temporary licenses and original salesperson and broker licenses being issued. March was the first month since 2007 that more than 500 people took the real estate salesperson's examination. Overall, 55% passed and 67% of those taking the test for the first time passed.

Ms. Anderson recognized the Commission's property manager Hattie Thomas for having a perfect property audit. Ms. Thomas was presented a certificate of commendation from the office of State Auditor Jim Zeigler.

Ms. Anderson provided a legislative update. SB100 sponsored by Rules Committee Chair Sen. Jabo Waggoner and HB281 sponsored by Rep. Steve McMillan are moving without issue. The Senate bill received a favorable report in the Senate Committee on Governmental Affairs and the House bill received a favorable report in the House Committee on Boards, Agencies and Commissions. Each bill will now need to gain passage in the Chamber of origin and then one of the two bills must receive favorable votes in committee and by the full body.

Amendments were made to the Alabama Home Builders bill (SB268 and HB341). The Senate bill with amendments may be on the floor during the week of April 24, 2017. Commission strategic planning consultant JDanny Cooper submitted a report showing the status of bills that the Commission is watching.

Commissioners were informed that a meeting of the Alabama Center for Real Estate (ACRE) Trustees will be held May 11 in Montgomery. ACRE will also hold its annual networking reception in Montgomery on May 11.

Commissioner Cawthon made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

HEARINGS

Deann Kendrick Stone, Application for Determination of Licensing Eligibility, Investigation File I-15,006

Upon discussion of the evidence and testimony presented by Ms. Stone regarding her application for determination of licensing eligibility, Commissioner Cawthon made a motion to deny her request. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Patrick C. Howard, Application for Determination of Licensing Eligibility, Investigation File I-15,015

Upon discussion of the evidence and testimony presented by Mr. Howard regarding his application for determination of licensing eligibility, Commissioner Sharp made a motion to approve his application. Commissioner Miller seconded the motion and it passed 7-1 with Commissioner Poe voting against the motion.

Carol Armstrong, Application for Determination of Licensing Eligibility, Investigation File I-15,022

Upon discussion of the evidence and testimony presented by Ms. Armstrong regarding her application for determination of licensing eligibility, Commissioner Harrison made a motion to approve her application. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

Brad Allen Bozeman, Application for Determination of Licensing Eligibility, Investigation File I-15,025

Upon discussion of the evidence and testimony presented by Mr. Bozeman regarding his application for determination of licensing eligibility, Commissioner Cawthon made a motion to approve his application. Commissioner Miller seconded the motion and it passed 7-1 with Chairman Watts voting against the motion.

Alabama Real Estate Commission vs. Lee Kupfer, Formal Complaint No. 3417

Lee Kupfer, Temporary Salesperson, JRHBW Realty Inc., d/b/a RealtySouth Trussville Branch, Trussville, Alabama, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(1) by procuring, or attempting to procure, a license for himself or another by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a license.

Upon discussion of the testimony and evidence presented by Mr. Kupfer, Commissioner Harrison made a motion to find him guilty. Commissioner Wright seconded the motion and it passed 7-1 with Commissioner Miller voting against the motion.

Alabama Real Estate Commission vs. Kia Neaka Dailey Lewis, Formal Complaint No. 3419

Kia Neaka Dailey Lewis, Inactive Temporary Salesperson, Birmingham, Alabama, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(1) by procuring, or attempting to procure, a license for herself or another, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a license by failing to disclose, when asked for specifics regarding the arrest question on her application, that she was criminally charged with theft and not just a traffic violation.

Upon discussion of the evidence and testimony presented by Ms. Lewis, Commissioner Cawthon made a motion to find her guilty and revoke her license. Commissioner Poe seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Monica R. Hatcher, Formal Complaint No. 3402

Monica R. Hatcher, Inactive Salesperson, Birmingham, Alabama, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn.

Ms. Hatcher was not present for the hearing. General Counsel Chris Booth informed Commissioners that Ms. Hatcher submitted a signed affidavit in which she waived a hearing and pleaded guilty, but she had not replaced the funds for the bad check or paid the bad check fee. Upon discussion of the evidence presented, Commissioner Wright made a motion to find her guilty, fine her \$250, and require her to pay her renewal fee and the bad check fee. The total amount is to be paid within 30 days. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

NOT APPEARINGS

Barry Mitchell Jones, Bad Check, Formal Complaint No. 3418

Barry Mitchell Jones, Salesperson, Tutt Real Estate LLC d/b/a Tutt Land Company North Alabama, Trussville, Alabama, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn.

Upon discussion of the evidence presented, Commissioner Cawthon made a motion to dismiss the charge. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Proposed Changes to Rule 790-X-1-.03

Changes to Rule 790-X-1-.03 were proposed to clarify the activities that require a license for those engaging in rental, leasing, or property management services for real estate located in Alabama. Upon discussion of the proposed Rule changes, Commissioner Wright made a motion that the Commission move forward with the rule making process. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Granger Thagard & Associates and Jack Granger, Request for Amicus Curiae (Friend of the Court) Brief to the Alabama Supreme Court, Investigative File I-15,038

Granger Thagard & Associates and Jack Granger requested that the Alabama Real Estate Commission file an amicus curiae (friend of the court) brief on their behalf regarding a lawsuit that was filed against them claiming breach of fiduciary duty, as this case could have a significant future impact on Alabama Real Estate License Law.

Upon discussion of the information presented detailing the reason for the request, Commissioner Wright made a motion to approve the request from Granger Thagard & Associates and Jack Granger that the Commission present an amicus curiae brief to the Alabama Supreme Court. Commissioner Denney seconded the motion and it passed unanimously 8-0.

Next Commission Meeting: May 25, 2017, 9:00 a.m. in Montgomery

Confirm June Meeting Date and Location for the Record: June 22, 2017, 9:00 a.m. in Montgomery

Commissioner Wright made a motion to confirm the June Commission meeting for June 22, 2017 at 9:00 a.m. in Montgomery. Commissioner Miller seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 12:50 p.m.

Done this 20th day of April, 2017.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary