

MINUTES

The Alabama Real Estate Commission met at 9:00 a.m. on August 8, 2008, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Gordon Henderson; Vice Chair Sheila Hodges; Commissioners Jewel Buford, Steve Cawthon, Bobby Hewes, Chester Mallory, Jan Morris and Dorothy Riggins; Executive Director D. Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Education Director Ryan Adair; Investigators David Erfman, Chuck Kelly, Phillip Bunch, K.C. Baldwin and Hearing Office Tori Adams. Commissioner Bill Watts was absent with notice.

The meeting having been duly noticed according to the Open Meetings Act was called to order by Chairman Henderson at 9:00 a.m.

Commissioner Mallory moved to approve the June 27, 2008 minutes as presented. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Chairman Henderson recognized and welcomed Julie Weller new chief administrative law judge in the Attorney General's office and AAR Executive Vice-President, Danny Cooper. Incoming Commissioners Nancy Wright and Clif Miller were also welcomed and note made of their schedule for Commissioner orientation.

Executive Director Philip Lasater presented the June 2008 Financial Report. He reported on budget authority, expenditures, receipt, status of revenue to appropriation, carry over funds, funds available from investments, and status of the recovery fund. A review of recovery fund cases was presented by General Counsel Charles Sowell.

Mr. Lasater asked the Commission if they would like to formally communicate to AAR (Alabama Association of Realtors) our ongoing interest in continuing to work for legislative action regarding size of letters in advertising and requirement for reciprocal applicants to complete Alabama course work and exam. Commissioner Cawthon made a motion to communicate our commitment to the ongoing mutual effort and to encourage AAR's support of this legislation for the 2009 session. The motion was seconded by Commissioner Riggins and passed unanimously 8-0. Mr. Lasater asked if Commissioners were prepared to accept a recommendation that the Commission legislatively pursue the authority to issue a license to real estate instructors and schools and further asked if Commissioners would be prepared to approve that subject to language being brought to them at the September meeting. The Chair instructed Mr. Lasater to move forward with developing the proposal for presentation in September.

Commissioners Mallory, Hodges, Morris, Cawthon and Buford shared reports on the ARELLO District meeting recently held in Branson, Missouri. Commissioner Mallory gave an extensive overview of the state reports. He also gave an overview of the presentation by an appraiser who worked undercover for the FBI. He complimented the Alabama Real Estate Commission for the reputation they have among the states. Commissioner Hodges highlighted the presentation given by an economist from the Federal Reserve. Virginia passed their community association management law and Commissioner Hodges voiced that she is recommitting herself to facilitating coordination with AAR and activating the task force to continue working on assessing how to address Alabama's need in this area. She also reported that the revenue withholding that has just passed in Alabama has been working effectively in Mississippi for years. Commissioner Morris reported that she learned some jurisdictions absorb the cost of processing online renewals while levying a higher fee for processing paper. Georgia does a trust account course for brokers. The 2009 district conference will be hosted by Kentucky. Commissioner Cawthon shared what he learned about the mortgage fraud cases discussed at the meeting. Commissioner Buford commented on how well the conference was planned and how informative it was. Mr. Lasater informed Commissioners that Alabama was confirmed as the host jurisdiction for the 2011 ARELLO District conference.

Commissioner Hodges shared information about activities before and after the September Commission meeting to celebrate service of outgoing Commissioners and welcome incoming Commissioners. At the conclusion of the September 5 Commission meeting, the Commission site selection task force will view potential meeting facilities for the 2011 ARELLO District conference which will be held in the Gulf Shores/Orange Beach area. Commissioners who will serve on the task force are Commissioners Hodges, Morris, Buford and incoming Commissioner Nancy Wright.

Commissioner Morris moved that deliberations be held in open session. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

HEARINGS AND APPEARINGS

Alabama Real Estate Commission vs. Marc B. Anthony and Moss Properties, Inc., Formal Complaint No. 3071

Upon discussion of the evidence and testimony presented in the matter of Marc B. Anthony, Qualify Broker, of Moss Properties, Inc., and Moss Properties, Birmingham, Alabama, in that Respondents violated the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by having a payment made from the Recovery Fund toward satisfaction of a judgment pursuant to the Code of Alabama 1975, as amended, Section 34-27-31(e)(6), Commissioner Hodges moved that all licenses of Marc B. Anthony and Moss Properties, Inc. be revoked. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Debra Ann Williams, a/k/a Debra A. Cook, Formal Complaint No. 3076

The case concerning Formal Complaint 3076 in the matter of Debra A. Cook was continued.

Alabama Real Estate Commission vs. Lawrence Edward Haynes, Formal Complaint No. 3075

Since the Commission could not prove service to Mr. Haynes and in view of Mr. Haynes' failure to appear for this hearing, the matter was continued.

Cheyneke Lanette Ballard, Applicant for Temporary Salesperson's License, I-12,755

Upon discussion of eligibility for licensure of Ms. Ballard, Commission Hodges moved that Ms. Ballard's application be approved. The motion died for lack of a second. Commissioner Morris made a motion to deny Ms. Ballard's application. The motion was seconded by Commissioner Cawthon and passed 6-2 with Commissioners Hodges and Riggins voting no.

Katherine Jeanette Hornbuckle, Hardship Application to Obtain Original Salesperson's License, I-12,776

Upon discussion of the testimony presented by Ms. Hornbuckle and her hardship situation which resulted in the lapsing of her temporary salesperson's license, Commissioner Hewes made a motion to approve the request. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

Dallas Demetrius Cunningham, Applicant for Determination of Licensing Eligibility, I-12,753

Since the Commission could not prove service to Mr. Cunningham and in view of Mr. Cunningham's failure to appear for this hearing, the matter was continued.

NOT APPEARING ITEMS FOR RULING

Gabriel Cherron Henderson, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3079

Upon discussion of the evidence and testimony presented in the matter of Gabriel Cherron Henderson, Temporary Salesperson, Latham Real Estate and Investment, LLC, d/b/a Re/Max First Choice, Pelham, Alabama, and the alleged violation of 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, Commissioner Hewes made a motion to find Ms. Henderson guilty and fine her \$250.00. Commissioner Buford seconded the motion and it passed 7-0. Commissioner Mallory abstained.

Lajuana Jones, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3074

Upon discussion of the evidence and testimony presented in the matter of Lajuana Jones, Salesperson, Classic Realty, LLC, d/b/a Keller Williams Realty, Huntsville, Alabama, and the alleged violation of 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, Commissioner Hodges made a motion to dismiss the complaint. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Andre Fontana, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3078

Upon discussion of the evidence and testimony presented in the matter of Andre Fontana, Inactive Salesperson, Mobile, Alabama, and the alleged violation of 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, Commissioner Hewes made a motion to dismiss the complaint. Commissioner Riggins seconded the motion and it passed unanimously 8-0.

Lisa Rayel Jeffrey, Surrender of License in Lieu of Hearing, Formal Complaint No. 3066

Upon review of the evidence presented in the matter of Lisa Rayel Jeffrey, inactive temporary salesperson, Glendale, California, and the alleged violation of 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, Commissioner Hodges made a motion to accept Ms. Jeffrey's affidavit of surrender of her license which renders it revoked. Commissioner Morris seconded the motion and it passed unanimously 8-0.

David Birnbrey, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3081

Upon review of the evidence presented in the matter of David Birnbrey, Qualifying Broker, The Shopping Center Group, LLC, Atlanta Division, Atlanta Branch, Atlanta, Georgia, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failure to comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that Mr. Birnbrey failed to change the address of his place of business within the thirty (30) days required after relocation, Commissioner Hodges made a motion to find Mr. Birnbrey guilty and fine him \$500. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Tammie M. Simmons, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3083

Upon review of the evidence presented in the matter of Tammie M. Simmons, Qualifying Broker, Simmons Realty Group, Inc., Pensacola, Florida, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) in that Respondent failed to comply with Alabama Real Estate Commission Rule 790-X-3-.01 by failing to notify the Commission in writing within thirty (30) days of having relocated their place of business, Commissioner Hodges made a motion to find Ms. Simmons guilty and fine her \$250. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Ronald H. Alicea, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3080

Upon review of the evidence presented in the matter of Ronald H. Alicea, Qualifying Broker, Gulf Coast Preferred Properties, Inc., St. Petersburg, Florida, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) in that Mr. Alicea failed to comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that he did not notify the Commission within thirty (30) days of relocating his place of business, Commissioner Morris made a motion to dismiss the complaint. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Marian Anne Wehby, Request for Extension to Take Salesperson Examination, I-12,784

Upon discussion of Ms. Wehby's failure to take and pass the examination for temporary salesperson's license by the one year deadline after completing the pre-license course and her request that she be allowed additional time to take and pass the exam, Commissioner Hodges moved to approve a 90 day extension for Ms. Wehby to complete the salesperson examination. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Debbie Kessler, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3084

Upon review of the evidence presented in the matter of Debbie Kessler, Qualifying Broker, The Pinnacle Real Estate Group, LLC, Clarkston, Michigan, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that Ms. Kessler failed to notify the Commission within thirty (30) days of having relocated her place of business, Commissioner Hodges made a motion to find Ms. Kessler guilty and fine her \$250.00. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Michael J. Negard, Hardship Renewal of Lapsed Original Salesperson's License, I-12,791

Upon discussion of Mr. Negard's hardship circumstances which resulted in his failure to renew his salesperson's license and his request to be allowed to renew his license and bring it up to date, Commissioner Morris made a motion to approve his request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Theresa M. Thornton, Request for Extension to Complete the 30 Hour Post License Course, I-12,792

Upon review of Ms. Thornton's request that she be granted an extension to complete the post license course and apply for her original salesperson's license, Commissioner Morris made a motion to grant Ms. Thornton an additional six (6) months to complete the course and apply for her salesperson's license. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Young Yee Jones, Surrender of License, I-12,740

Upon review of the evidence presented in the matter of Young Yee Jones and her affidavit of surrender of her salesperson's license, Commissioner Morris made a motion to accept the surrender which renders her license revoked. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

In additional business Chairman Henderson stated that he has asked Commissioner Cawthon to serve as the Commission representative on the ACRE (Alabama Center for Real Estate) Board of Trustees in his stead and Commissioner Cawthon has accepted.

There being no further business, the Commission adjourned at 12:10 p.m.

Done this 8th day of August, 2008.

Gordon Henderson, Chairman

Patricia Anderson, Recording Secretary