

## MINUTES

The Alabama Real Estate Commission met June 23, 2006, at the Gulf Shores City Council Chambers, 1905 West First Street, Gulf Shores, Alabama.

Chairman Poole called the meeting to order at 9 a.m. A quorum was declared upon the meeting having been duly noticed as required by the Open Meetings Act.

Those present were Chairman Bill Poole; Vice Chair Sheila Hodges; Commissioners Roy Bragg, Jewel Buford, Thomas Hays, Gordon Henderson, Bobby Hewes, Lyman Lovejoy and Chester Mallory; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Special Investigators David Erfman and Chuck Kelly; Auditor Denise Blevins and Hearing Officer Tori Adams.

Chairman Poole welcomed Carolyn Doughty, Real Estate Broker and President Pro Tempe of the Gulf Shores City Council, and expressed appreciation for the use of facilities. Chairman Poole extended compliments and gratitude for the hospitality that Vice Chair Hodges shared with everyone the previous evening.

Commissioner Henderson moved to approve the May 11<sup>th</sup> and 12<sup>th</sup> Minutes as presented. Commissioner Bragg seconded the motion subject to correction of a typographical error in the last paragraph on page 1. The motion passed unanimously 9-0.

The financial statements from May were reviewed with fund balances and revenue and expenditure projections highlighted. There was no action taken.

Executive Director Philip Lasater was recognized. He reported that Commissioners Poole, Henderson, Hodges, Lovejoy and Mallory along with Pat Anderson were approved for the ARELLO meeting in Oklahoma City.

The information regarding potential associated costs for conducting a statewide public information campaign was distributed and reviewed. It was the consensus that no direct or intentional information be budgeted for this purpose.

Ryan Adair, Education Director, provided an update on initial findings from real estate school and classroom audits including error rates in CMAP input.

Assistant Director Pat Anderson was recognized to review information on the application of the recent Commission ruling of the advertising statute which was prepared for presentation at the upcoming AAR Open Forum.

### Public Hearing on Proposed Rules and Amendments

Halls were sounded and there was no one present to comment on the rules. There have been no written comments received.

Regarding Rule 790-X-3.-03, Commissioner Hodges suggested amending the submitted language to strike *have full* and insert *be one of the individuals with.....* General Counsel Charles Sowell will review and refine further. Commissioner Hodges moved to close the Public Hearing. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

## HEARINGS

### **Michael A. Chambliss, Denied Application to Renew Lapsed License, I-11,882**

Commissioner Bragg moved to continue with the decision made in February and to deny the request of Mr. Chambliss. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

### **Alabama Real Estate Commission vs. Lorraine S. Nichols, Formal Complaint No. 2916**

Upon discussion of the evidence and testimony presented in the matter of Lorraine S. Nichols, Qualifying Broker, Seacoast South Realty LLC, Gulf Shores, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with the place of business requirements in the Code of Alabama 1975, as amended, Section 34-27-2(a)(11)b., Commissioner Hodges moved to find Ms. Nichols guilty and to fine her \$2500. Commissioner Buford seconded the motion. Upon further discussion Commissioner Henderson moved to fine Ms. Nichols \$1000 and Commissioner Mallory seconded the motion. The vote on the amendment passed unanimously 9-0. The vote on the main motion as amended passed unanimously 9-0.

### **Alabama Real Estate Commission vs. Dorothy M. Walther, Formal Complaint No. 2902**

Upon discussion of the evidence and testimony presented in the matter of Dorothy M. Walther, Inactive Salesperson, Mobile, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-35(j)(1) and Alabama Real Estate Commission Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates showing the completion of all the required continuing education course hours by the deadline and by false or inaccurate filing of the renewal, Commissioner Henderson moved to grant a continuance and allow for scheduling the hearing in July. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

### **Alabama Real Estate Commission vs. John Bobe, Sunset Properties, Formal Complaint No. 2907**

Upon discussion of the evidence and testimony presented in the matter of John Bobe, Qualifying Broker, Sunset Properties, Gulf Shores, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by Respondents failing, within a reasonable time, to deposit and account for funds belonging to others in a separate federally insured account or accounts located in Alabama, and by failing to properly account for at all times, all funds coming into their possession that belonged to others, Commissioner Hodges moved to find Sunset Properties and Mr. Bobe guilty and to fine him \$1500 and also suspend his license for 90 days, staying the suspension pending his completion of a trust accounting course. Commissioner Buford seconded the motion and it passed 8-1 with Commissioner Hays voting no.

### **Alabama Real Estate Commission vs. Jennifer Eileen Middleton, Formal Complaint No. 2887**

Upon discussion of the evidence and testimony presented in the matter of Jennifer Eileen Middleton, Ft. Smith, Arkansas, 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 Buford moved to find Ms. Middleton guilty and to fine her \$250. Commissioner Hodges seconded the motion and it passed 8-1 with Commissioner Mallory voting no.

**Alabama Real Estate Commission vs. Richard E. Hilley, Formal Complaint No. 2913**

Upon discussion of the evidence and testimony presented in the matter of Richard E. Hilley, Salesperson, Shore Ventures, Inc., d/b/a RE/MAX of Gulf Shores, Gulf Shores, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-31(j) in that he failed to notify the Commission within ten days of the institution of criminal prosecution against him, Commissioner Hodges acknowledged familiarity of Mr. Hilley and expressed her belief that she could hear and render a fair and impartial decision, but deferred to Mr. Hilley. After having been asked by the Hearing Officer for Mr. Hilley's response, he declared that he did not wish her recusal.

Commissioner Buford moved to revoke his license. Commissioner Hodges seconded the motion and it passed 7-2 with Commissioners Hays and Mallory voting no.

**Alabama Real Estate Commission vs. William Clarence Scruggs, Jr., Formal Complaint No. 2912**

Upon discussion of the evidence and testimony presented in the matter of William Clarence Scruggs, Jr., Inactive Temporary Salesperson, Mobile, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(1) by failing to completely answer questions on the application for salesperson's temporary application, thereby procuring a license by fraud, misrepresentation, or deceit, Commissioner Hodges moved to revoke the license of Mr. Scruggs. Commissioner Buford seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. Christopher Allen Cummings, Formal Complaint No. 2927**

Upon discussion of the evidence and testimony presented in the matter of Christopher Allen Cummings, Qualifying Broker, Orange Beach Realty, LLC, Orange Beach, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by violating or disregarding the ORDER of the Commission in that Respondent failed to pay a fine of \$4000 within thirty days of receipt of ORDER, Commissioner Hodges moved to find Mr. Cummings guilty and to fine him \$500. Commissioner Hewes seconded the motion and it passed 8-1 with Commissioner Hays voting no.

**Jason M. Messer, Applicant for Licensure, I-11,973**

Upon review of the application for temporary salesperson's license submitted by Mr. Messer, Commissioner Hodges moved to approve Mr. Messer's application. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

**Dawn Michelle Collins, Request for Additional Time for Obtaining an Original Salesperson's License, I-12,005**

Upon review of Ms. Collins' hardship request for additional time to obtain an original salesperson's license, Commissioner Hewes moved to approve the hardship request of Ms. Collins. Commissioner Lovejoy seconded the motion and it passed unanimously 9-0.

## **NOT APPEARINGS**

### **Alabama Real Estate Commission vs. Rodney E. Barstein, Formal Complaint No. 2929**

Upon discussion of the evidence and testimony presented in the matter of Rodney E. Barstine, Qualifying Broker, Barstein and Associates, Inc., Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34027035(j)(1) and Alabama Real Estate Commission Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates showing the completion of all the required continuing education course hours by the deadline and by the false or inaccurate filing of the renewal, Commissioner Hodges moved to accept the guilty plea and waiver of hearing on the incomplete continuing education complaint. Commissioner Buford seconded the motion and it passed 8-1 with Commissioner Hays voting no.

### **Alabama Real Estate Commission vs. Kerry C. Glenn, Formal Complaint No. 2925**

Upon discussion of the evidence and testimony presented in the matter of Kerry C. Glenn, Salesperson, Kennon, Parker, Duncan and Key LLC, Columbus, Georgia, 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 moved to find Ms. Camper guilty and to fine her \$250. Commissioner Buford seconded the motion and it passed 8-1 with Commissioner Mallory voting no.

### **Paula M. Austin, Applicant for Temporary Salesperson's License, I-11,893**

Upon review of the application for temporary salesperson's license submitted by Ms. Austin, Commissioner Hewes moved to deny her application. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

### **Mohammed Abdullah, Applicant for Reciprocal Salesperson's License, I-11,983**

Upon review of the reciprocal salesperson's license application submitted by Mr. Abdullah, Commissioner Hodges moved to deny the license eligibility of Mr. Abdullah. Commissioner Buford seconded the motion and it passed unanimously 9-0.

### **Alabama Real Estate Commission vs. Howard Drew Fleming, Formal Complaint No. 2932**

Upon discussion of the evidence and testimony presented in the matter of Howard Drew Fleming, Salesperson, Shane Investment Property Group, LLC, Alpharetta, Georgia, 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 moved to find Mr. Fleming guilty and to fine him \$250. Commissioner Buford seconded the motion and it passed 7-2 with Commissioners Hays and Mallory voting no.

### **Claudine Arredondo Graf, Surrender of Real Estate License, I-11,977**

Commissioner Hodges moved to accept the affidavit of surrender from Ms. Graf. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

**Bill Thomason, Attorney at Law Representing Mary T. Gilyard (formerly with Belview Real Estate Company) Application for Rehearing, Formal Complaint No. 2911**

Upon discussion of the application for rehearing submitted by Ms. Gilyard, Commissioner Henderson moved to deny the request for rehearing. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

**David G. Campbell, Request for Ruling on Flee Market Booth, I-11,997**

Upon discussion of Mr. Campbell's request for Commission ruling on having an informational booth at a weekend flea market in Mobile, Commissioner Henderson moved to approve Mr. Campbell's request. Commissioner Lovejoy seconded the motion and it passed unanimously 9-0.

**Mark Edward Rovere, Applicant for Licensure, I-11,982**

Upon review of the temporary salesperson application submitted by Mr. Rovere, Commissioner Hewes moved to deny Mr. Rovere's application. Commissioner Hodges seconded the motion and it passed 9-0.

**Victoria J. Wood, Applicant for Determination of Licensing Eligibility, I-11,999**

Upon discussion of Ms. Wood's eligibility for licensure, Commissioner Hodges moved to deny the license eligibility of Ms. Wood. Commissioner Buford seconded the motion. The motion fails 4-5 with Commissioners Bragg, Hays, Henderson, Mallory and Poole voting no. Commissioner Henderson moved to approve the license eligibility of Ms. Wood. Commissioner Mallory seconded the motion and the motion passed with Commissioners Buford and Hodges voting no.

**Alabama Real Estate Commission vs. Jennifer R. Cade, Formal Complaint No. 2938**

Upon discussion of the evidence and testimony presented in the matter of Jennifer R. Cade, Salesperson, Barrons Realty Group, Inc., Gulf Breeze, Florida, 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 Bragg moved to find Ms. Cade guilty and to fine her \$250. Commissioner Hodges seconded the motion and it passed 7-2 with Commissioners Hays and Mallory voting no.

**Alabama Real Estate Commission vs. Kevin M. Kendall, Formal Complaint No. 2933**

Upon discussion of the evidence and testimony presented in the matter of Kevin M. Kendall, Salesperson, Real Estate Brokers, Alexander City, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-359j)(1) and Alabama Real Estate Commission Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates showing completion of all required continuing education courses, Commissioner Hodges moved to accept the affidavit and plea of guilt from Mr. Kendall. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

**Jacqueline Simmons, Request for Extension to 90 day Deadline for Taking State Exam, I-12,203**

Upon discussion of Ms. Simmons' hardship request for additional time for taking the state exam, Commissioner Hays moved to approve a 90 day extension. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

**Drew McKay, Request for Extension to 90 day Deadline for Taking State Exam, I-12,202**

Upon discussion of Mr. McKay's disability hardship and request for an extension to the 90 day deadline for taking the state exam, Commissioner Mallory moved to approve a 60 day extension. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

**Regina Nicole Caiola, Applicant for Licensure, I-12,007**

Upon review of the the application for salesperson's temporary license submitted by Ms. Caiola, Commissioner Hodges moved to deny the temporary sales application of Ms. Caiola. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

There being no further business, the meeting adjourned at 1:07 p.m.

Done this 23<sup>rd</sup> day of June, 2006.

---

Bill E. Poole, Chairman

---

D. Philip Lasater, Recording Secretary