

MINUTES

The Alabama Real Estate Commission met March 12, 2004, at the Greater Birmingham Association of Home Builders, Birmingham, Alabama.

Those present were Chairman Bill E. Poole; Vice Chairman Gordon Henderson; Commissioners Thomas Hays, Bobby Hewes, Sheila Hodges, Lyman Lovejoy, Chester Mallory and Ruth Whitley; Executive Director Philip Lasater; Education Director Patricia Anderson; Legal Counsel Charles Sowell; Special Investigators David Erfman and Chuck Kelly and Hearing Officer Tori Adams Burk. Commissioner Bragg was absent with notice.

Chairman Poole called the meeting to order and declared a quorum present at 9:00 a.m.

Commissioner Hodges moved to approve the Minutes as presented. Commissioner Hewes seconded the motion. Commissioner Whitley noted a correction on page 2 in the first item thatworking on the Consumer Guide Task Force is Commissioner Mallory with Commissioners Whitley and Bragg rather than Hodges. With that correction recorded the motion passed unanimously 8-0.

The financial report for February was distributed. It was noted that the travel and supply lines were under with the largest percentage of expenditure upcoming in the third and fourth quarters. There was no action taken.

The Executive Director's report was distributed and Philip Lasater highlighted and elaborated on several aspects of the report including a legislative update, a Commission server being established at ISD, progress on the FY 04 staffing plan, and consideration of altering the June meeting date. Following discussion about several factors, Commissioner Mallory moved that the June meeting be held in Montgomery on June 4. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Patricia Anderson, Education Director, was recognized to review the prospective time line for Education rules. Following general discussion on the process and respective areas subject to rule changes, Commissioners discussed the options for Continuing Education course requirements. Then Commissioner Lovejoy moved that the Commission promulgate rules that would make all Continuing Education courses elective. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

In follow up discussion with Hearing Officer Tori Adams Burk, it was clarified that the Commission may call an Executive Session for deliberation of disciplinary determinations, after which the vote in any matter must be taken in open public meeting with members of the public permitted to return if they have been asked to leave. Likewise the Commission could elect to conduct all of its deliberation of disciplinary determinations in Executive Session and come out of the Session to take the votes in an open public meeting. Unless an Executive Session is called, members of the public may be present for all proceedings. All votes must be taken in an open public session.

It was confirmed that the next meeting will be held in Mobile County on April 16.

HEARINGS

Alabama Real Estate Commission vs. Carolyn Samford, Formal Complaint No. 2791 (CONTINUANCE Requested of and GRANTED by the Hearing Officer)

Alabama Real Estate Commission vs. Sidney M. Smyer III, Formal Complaint No. 2807

Upon discussion of the evidence and testimony presented in the matter of Sidney M. Smyer, III, Suspended Broker License, Leeds, 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, Commissioners accepted the check he presented for payment of his previously assessed fine. Commissioner Whitley moved to dismiss Formal Complaint No. 2807. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. LaTonya Mariea Green, Formal Complaint No. 2797

Upon discussion of the evidence and testimony presented in the matter of LaTonya Mariea Green, Temporary Salesperson, Century 21 The Wiley Reed Team, Trussville Branch, Trussville, Alabama, and the alleged violation of 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, Commissioner Henderson moved to approve Ms. Green keep her license. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Alfreda F. Lewis, Formal Complaint No. 2805

Upon discussion of the evidence and testimony presented in the matter of Alfreda F. Lewis, Inactive Temporary Salesperson, Hoover, Alabama, and the alleged violation of 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, Commissioner Hewes moved to approve Ms. Lewis keep her license. Commissioner Hays seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. James R. Briley, Jr., Formal Complaint No. 2802

Upon discussion of the evidence and testimony presented in the matter of James R. Briley, Jr., Qualifying Broker, Belview Real Estate Company, Inc., Birmingham, 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 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 Mr. Briley guilty and to revoke his license. Commissioner Lovejoy seconded the motion. Discussion ensued and Commissioners

Hodges and Lovejoy agreed to amend the motion from a revocation to a one year suspension. The motion passed unanimously 8-0.

Commissioner Henderson moved to find Belview Real Estate Company guilty, to pay a fine of \$1000, and requested the company make the account whole and subject to audit within 30 days. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR RULING

Harold V. Walker, Request to Renew Lapsed Salesperson's License, I-11,263

Upon discussion of Mr. Walker's request to renew his lapsed salesperson's license, Commissioner Henderson moved to approve Mr. Walker's hardship renewal request upon consideration of his active military orders. Commissioner Hodges seconded the motion and the motion passed unanimously 8-0.

Jude C. Onwuka, Applicant for Determination of Eligibility to be Licensed, I-11,241

Upon discussion of the licensing eligibility of Jude C. Onwuka, Commissioner Mallory moved to approve the licensing eligibility of Mr. Onwuka. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

Timothy Michael McFadden, Reciprocal Broker's Application, Felony Record, I-11,274

Upon discussion of Mr. McFadden's application for reciprocal broker's license, Commissioner Henderson moved to approve the reciprocal broker application of Mr. McFadden. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Eileene D. Griffith, Request Ruling on Qualifying Broker's Status, I-11,285

Commissioner Mallory moved to approve the Qualifying Broker status of Eileene D. Griffin, ruling that the circumstances as presented by her attorney to the Commission will allow her to comply with the supervisory requirements of the law. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

There being no further discussion, the Commission adjourned at 12:49 p.m.

Done this 12th day of March 2004.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary