

MINUTES

A meeting of the Alabama Real Estate Commission was held March 21, 2019, at the Cullman City Hall Auditorium, 204 2nd Avenue NE, Cullman, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Danny Sharp; Commissioners Cindy Denney, Joyce Harris, Carole Harrison, Vaughn Poe, and Susan Smith; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Mandy Lynn; Investigators David Erfman, Rickey Fennie, and Marshall Simons; Auditor Vickie Shackelford and Executive Assistant Barbi Lee. The Hearing Officer was Jim Hampton. Commissioners Emmette Barran and Reid Cummings were absent with notice.

The meeting having been duly noticed according to the Alabama Open Meetings Act was called to order at 8:30 a.m. and a quorum was declared.

Vice Chairman Sharp made a motion to approve the minutes from the February 21, 2019 meeting. Commissioner Harrison seconded the motion and it passed unanimously 7-0.

Chairman Watts welcomed the participants from the North Alabama REALTOR® Leadership Program and explained the procedures of the meeting to all guests. He also recognized former Commissioner Steve Cawthon who was in attendance.

Executive Director Patricia Anderson presented the February 2019 financial report. Revenues have increased due to more individuals taking exams to become licensees. During February 489 exams were given – 399 Salesperson; 39 Broker; 29 Reciprocal and 22 Reciprocal Broker with an overall pass rate of 57%. Ms. Anderson explained the current economy drives revenue collections. Expenditures are under estimated projections and the total amount paid to other state agencies for services in FY 2019 is \$80,000.

Assistant Executive Director Teresa Hoffman provided information on the Commission's FBI Background Check process utilizing Gemalto. Having 12 full months of performance statistics to draw from, she reported that 76.2% of backgrounds are available to the Investigative Staff on the same day that the applicants submit their prints and 92.2% of backgrounds are available within two days. Additionally, the fingerprint failure rate for the year is 0.67% far under the 2% industry standard. She noted that the partnership between the Investigative Staff, Gemalto, and ALEA is quite impressive.

General Counsel Mandy Lynn provided an appeals update and stated that two payments have been processed from the Recovery Fund.

COMMISSIONER DISCUSSION

At 9:00 a.m. Chairman Watts called for anyone who would like to speak on the proposed rule change to Alabama Real Estate Commission Rule 790-X-1-.18 Reciprocal License

Requirements. There was no response to be recognized for the Public Hearing. Chairman Watts read the additional verbiage added to this rule to be compliant with the Military Family Jobs Opportunity Act of 2018.

Vice Chairman Sharp made a motion that Commissioners conduct disciplinary hearing disposition discussions in an Open Meeting. Commissioner Poe seconded the motion and it passed unanimously 7-0.

HEARINGS AND APPEARINGS

Chris Brazelton, Application for Temporary Salesperson License, Investigative File I-15,407

This hearing was continued.

Garrett Mac Leopard, Application for Determination of Licensing Eligibility, Investigative File I-15,489

Upon discussion of the evidence and testimony presented by Mr. Leopard regarding his application for determination of licensing eligibility, Vice Chairman Sharp made a motion to approve his application. Commissioner Poe seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Vickie Ausmer, Formal Complaint No. 3483

Vickie Ausmer, Salesperson, Barnes and Associates Realtors, Birmingham, Alabama, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-35(k) which states, "Inactive licenses shall be held at the Commission office until activated. No act for which a license is required shall be performed under an inactive license."

Upon discussion of the evidence and testimony presented in the matter, Commissioner Denney made a motion to find her guilty. Commissioner Smith seconded the motion and it passed unanimously 7-0. Commissioner Denney made a motion to revoke Ms. Ausmer's license. Commissioner Harrison seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Michael Tincher and Diane Hasley, Formal Complaint No. 3482

Michael Tincher, Salesperson, Capstone Realty, Huntsville, Alabama, was charged on **Count 1** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-84(a)(6) which states: (a) Licensees shall have all of the following obligations to all parties in a real estate transaction: (6) To act on behalf of the licensee or his or her immediate family, or on behalf of any other individual, organization, or

business entity in which the licensee has a personal interest only with prior timely written disclosure of this interest to all parties to the transaction.

Regarding **Count 1** of Formal Complaint 3482, upon discussion of the evidence and testimony presented in the matter, Vice Chairman Sharp made a motion to find him guilty. Commissioner Denney seconded the motion and it passed 6-1 with Commissioner Poe voting against the motion. Commissioner Denney made a motion to fine Mr. Tincher \$100. Commissioner Poe seconded the motion and it passed 5-2 with Vice Chairman Sharp and Commissioner Harrison voting against the motion.

Diane Hasley, Qualifying Broker, Capstone Realty, Huntsville, Alabama, was charged on **Count 2** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-34(a)(2) by failing to see that all transactions of Respondent Tincher complied with the Alabama Real Estate License Law, in that she did not see that he provided written disclosure to Complainant.

Regarding **Count 2** of Formal Complaint 3482, upon discussion of the evidence and testimony presented in the matter, Vice Chairman Sharp made a motion to find her guilty and fine her \$1,000. Commissioner Harris seconded the motion and it passed unanimously 7-0.

NOT APPEARINGS

Jennifer Solomon, Request for Extension of Deadline to Pass the Salesperson License Examination, Investigative File I-15,511

Upon review of the request from Ms. Solomon for an extension of deadline to pass the salesperson license examination, Vice Chairman Sharp made a motion to deny her request. Commissioner Smith seconded the motion and it passed unanimously 7-0.

Misty Cox, Request for Extension of Deadline to Pass the Salesperson License Examination, Investigative File I-15,512

Upon review of the hardship request from Ms. Cox for an extension of deadline to pass the salesperson license examination, Commissioner Harrison made a motion to grant her a 60-day extension. Commissioner Poe seconded the motion and it passed unanimously 7-0.

Confirm May Meeting Date and Location for the Record: May 23, 2019, 9:00 a.m. in Montgomery, Alabama

Vice Chairman Sharp made a motion to approve the May meeting for May 23, 2019 at 9:00 a.m. in Montgomery, Alabama. Commissioner Harrison seconded the motion and it passed unanimously 7-0.

Next Commission Meeting: Thursday, April 25, 2019, 9:00 a.m. in Montgomery, Alabama

There being no further business, the meeting adjourned at 11:27 a.m.

Done this 21st day of March 2019.

Bill Watts, Chairman

Barbi Lee, Recording Secretary