

## MINUTES

A meeting of the Alabama Real Estate Commission was held October 21, 2011, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Vice Chairman Jewel Buford; Commissioners Steve Cawthon, Clif Miller, Dorothy Riggins-Allen, Danny Sharp, Bill Watts and Nancy Wright; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Deputy Attorney General Charles Sowell; Assistant Attorney General Chris Booth; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly, Phillip Bunch and K.C. Baldwin. Tori Adams served as Hearing Officer.

Other staff in attendance were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, Accounting and Personnel Manager Molli Jones, Information Technology Manager Nancy Barfield, Assistant Information Technology Manager and Brett Scott.

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

Executive Director D. Philip Lasater administered the oath of office to Reid Cummings representing the 1<sup>st</sup> Congressional District and Carole Harrison representing the 3<sup>rd</sup> Congressional District.

Commissioner Buford then called for the election of Chairman and Vice Chairman in accordance with Section 34-27-7(f). Commissioner Sharp nominated Bill Watts for Chairman and Steve Cawthon for Vice Chairman. Commissioner Wright nominated Jewel Buford for Vice Chairman. In the vote for Chairman, Commissioners elected Bill Watts unanimously 9-0.

Mr. Watts presided for the remainder of the meeting as Chairman. Chairman Watts asked if there were any other nominations for Vice Chairman. Hearing none the nominations were closed. In the vote for Vice Chairman, Commissioners Cummings, Miller, Watts, Sharp and Riggins-Allen voted for Steve Cawthon. Commissioners Wright, Harrison and Buford voted for Jewel Buford. Commissioner Cawthon abstained from voting. The vote was 5-3 in favor of Commissioner Cawthon for Vice Chairman.

Commissioner Miller made a motion to approve the September minutes as presented. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Mr. Lasater reviewed the September and yearend financial statement. He noted that the Commission began fiscal year 2011 with carryover revenue of \$516,435 plus \$2,100,000 that were collected from renewals and allocated to FY 2011. Revenues collected for licensing and miscellaneous activities were just under \$865,000 creating \$3,442,000 cash available for FY 11. Disbursements totaled just over \$3,000,000 leaving an ending balance for FY 11 of \$293,482. Even though we basically spent what we collected we still have a healthy cash flow

due to revenue and investments that occurred during the years preceding 2008 and the economic slow down. Given how the economy is currently trending, we are likely to have to draw on reserve funds in the future.

The proposed budget for FY 2013 having been presented was generally reviewed and following brief discussion, Commissioner Wright made a motion to adopt the budget as presented. Commissioner Riggings-Allen seconded the motion and it passed unanimously 9-0.

Mr. Lasater asked if Commissioners would like to discuss the request from ACRE (Alabama Center for Real Estate). Chairman Watts responded that he has provided a list of questions regarding the request from ACRE to Mr. Lasater and Commissioners. He then summarized those questions: What is our statutory authority to make a grant to ACRE, the Commission's history of making grants to ACRE, the budget impact on the Commission with license renewals down, how creating the position of Education Director interacts with our Education Director, whether or not the request is duplicative of what the Commission is doing, is this a conflict of interest since the Commission evaluates and grants approval for ACRE developed and offered courses, is the time frame of three years reasonable, and will the Commission have any input into who will be hired by ACRE to fill the Education Director's position. Chairman Watts asked that these questions and any others that Commissioners have be sent to Mr. Lasater and that he provide responses by the November 18 meeting. He also asked that they be shared with Grayson Glaze and that Mr. Glaze attend the November Commission meeting to make a presentation. Commissioner Cummings asked if there are other universities in the state who have centers for real estate studies and if so what is the Commission's history and position for providing funding for them as well. Mr. Lasater responded that this is new territory and the Commission is just now in a position to consider grant requests. Any valid request that will serve the interests of the Commission and the citizens of Alabama can be entertained by Commissioners.

Mr. Lasater made Commissioners aware that the new Immigration Law will have implication for real estate administration and compliance. One particular area of concern for the Commission is verification of legal presence for the issuance of a license. Whereas the Commission has a rule regarding the verification process, the rules will need to be evaluated in accordance with the specific requirements in the new statute. Commission General Counsel Charles Sowell reported that this matter was discussed at the recently held Attorney General's luncheon and they were instructed not to give any advice on the new law until the AG's office has time to study and interpret it. Licensing Board attorneys will meet in the Commission training room next week to discuss compliance issues. Mr. Lasater assured Commissioners that we are doing all that we can to comply with the new act and will continue to do so.

Mr. Lasater called on Education Director Ryan Adair to give a report as the Commission's liaison to AAR (Alabama Association of Realtors) Education Trustees. Mr. Adair advised Commissioners that AAR Trustees plan to have a representative attend next month's meeting to bring forth a request that would be an addition to continuing education requirements. Also, members of the Commission's Education Advisory Committee will present the broker's course that they have developed. Information will be included in the November meeting packets

regarding this request. If there are changes to mandatory CE courses, rules must be changed and instructor training must be planned and presented prior to implementation of requirements.

Assistant Executive Director Patricia Anderson gave an overview to Commissioners regarding the timeline for promulgating and adopting new rules. The process takes four to six months.

Due to time issues, the ARELLO report was deferred until later.

Chairman Watts recognized and welcomed Robert Scott, President of the Alabama Association of Realtors and Alabama Association of Realtors Executive Vice President J. Danny Cooper.

Chairman Watts called Commissioner's attention to a handout titled "Management of Rental Real Estate." He noted that the Commission has been on record to change the statute that currently exempts apartment managers from licensing. He asked Commissioners to review the document and be prepared to discuss it at the November Commission meeting.

Commissioner Buford made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in open session. Commissioner Wright seconded the motion and it passed unanimously 9-0.

## **HEARINGS**

### **Cheyneke L. Ballard, Applicant for Temporary Salesperson's License, I-12,755**

Upon discussion of the evidence and testimony presented by Ms. Ballard in her request for approval to reapply for a temporary salespersons license after denial based on a felony conviction and that the Commission waive the examination and pre-license course, Commissioner Buford made a motion to grant her request based on her previously having successfully completed both the exam and course. Commissioner Riggins-Allen seconded the motion. Commissioner Cawthon offered a friendly amendment to obtain another background check and require her to complete continuing education requirements prior to license issuance. Commissioners Buford and Riggins-Allen accepted the friendly amendment. The motion passed unanimously 9-0.

### **Alabama Real Estate Commission vs. Alice N. Turner AND Bay Leaf Realty, Inc., Formal Complaint No. 3247**

Upon discussion of the evidence and testimony presented in the matter of Alice N. Turner, Qualifying Broker, Bay Leaf Realty, Inc., Citronelle, Alabama, and Bay Leaf Realty, Inc., and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Sections 34-27-36(a)(8)a. and 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 belong to others by having a shortages of funds; Count 2: Section 34-27-35(a)(19) by failing to retain copies of estimated closing statements in files in violation of Alabama Real Estate Commission Rule 790-X-3-.04(3); Count 3: Section 34-27-36(a)(31) by failing to keep copies of the Real Estate Brokerage Services Disclosure (RECAD) forms; Commissioner Buford made a motion to find Respondents guilty on Count 1 and fine them a total sum of \$1,000; on Count 2, to suspend Respondents' licenses for 90 days and stay the suspension for 90 days during which time Ms. Turner must complete the 3 hour continuing education course titled Risk Management for Property Managers and provided completion within the designated time frame, the suspension will be permanently stayed; and on Count 3, suspend Respondents' licenses for 90 days and stay the suspension for 90 days during which time Ms. Turner must complete the 3 hour continuing education course titled RECAD and provided completion within the designated time frame, the suspension will be permanently stayed. Commissioner Riggins-Allen seconded the motion and it passed unanimously 9-0.

**Blake B. Spicer, Applicant for Approval to Hold a Real Estate License After Revocation, I-13,700**

Upon discussion of the evidence and testimony presented by Mr. Spicer in his request for Commission approval to obtain a real estate license after voluntarily surrendering his license in December, 2008 and being denied approval at the September 2011 Commission meeting, Commissioner Buford made a motion to approve Mr. Spicer's request for re-licensure. Commissioner Cummings seconded the motion and it passed 8-1 with Commissioner Riggins-Allen voting no.

NOT APPEARINGS

**Deborah F. Brown, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3245**

Upon review of the evidence and testimony presented in the matter of Deborah F. Brown, Qualifying Broker, Deborah F. Brown Real Estate & Construction, Tuscaloosa, Alabama, 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 , Commissioner Buford made a motion to accept Ms. Brown's guilty plea and fine her \$500. Commissioner Miller seconded the motion and it passed unanimously 9-0.

**Wayne Andrew Sutton, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3248**

Upon review of the evidence and testimony presented in the matter of Wayne Andrew Sutton, Qualifying Broker, Lynx Real Estate, Inc., Atlanta, Georgia, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) via violation of Rule 790-X-3-.01 and considering Mr. Sutton's request to dismiss the complaint or allow him a hearing, Commissioner Cawthon made a motion to deny Mr. Sutton's request to dismiss the complaint

and set it for hearing. Commissioner Sharp seconded the motion and it passed unanimously 9-0.

**John Felipe Bascones, Applicant for Determination of License Eligibility, I-13,706**

Upon review of the application for determination of license eligibility submitted by Mr. Bascones, Commissioner Cawthon made a motion to deny the request. Commissioner Miller seconded the motion and it passed unanimously 9-0.

**Scott Beason, Hardship Renewal Request of Lapsed License, I-13,739**

Upon review of Mr. Beason's request for Commission approval to renew his lapsed salesperson license, Commissioner Buford made a motion to allow Mr. Beason to renew his license by paying all fees and penalties due. Commissioner Cawthon seconded the motion and it passed 5-4 with Commissioners Cummings, Harrison, Miller and Riggins-Allen voting no.

**Confirm Next Meeting Date and Location for the Record: November 18, 2011, 9:00 a.m., Montgomery**

Commissioner Buford made a motion to approve the next Commission meeting date and location for November 18, 2011, at 9:00 a.m. in Montgomery, Alabama. Commissioner Wright seconded the motion and it passed unanimously 9-0.

There being no further business, the meeting adjourned at 11:20 a.m.

Done this 21<sup>st</sup> day of October, 2011.

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Bill Watts, Chairman

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Patricia Anderson, Recording Secretary