

MINUTES

A meeting of the Alabama Real Estate Commission was held September 28, 2017, at the Birmingham Area Association of REALTORS®, 3501 Independence Drive, Birmingham, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Steve Cawthon; Commissioners Cindy Denney, Carole Harrison, Clif Miller, Vaughn Poe, Danny Sharp and Nancy Wright; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; Assistant General Counsel Mandy Lynn; Investigators David Erfman, K. C. Baldwin and Rickey Fennie; Auditor Anthony Brown and Executive Assistant Barbi Lee. The Hearing Officer was Jim Hampton. Commissioner Reid Cummings was absent with notice.

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:00 a.m. and a quorum was declared.

Chairman Watts expressed appreciation to the Birmingham Area Association of REALTORS® for the invitation to have this meeting in their facility and the kindness shown to the members and staff of the Commission.

Chairman Watts called on Executive Director Anderson to introduce incoming Commissioner Emmette “Em” Barran, Commercial Broker with Gateway Commercial Brokerage, Inc. in Decatur. Mr. Barran will be representing the Fifth Congressional District and his term begins October 1, 2017.

Chairman Watts recognized Vice Chairman Steve Cawthon and read a resolution commending Commissioner Cawthon for his 10 years of service to the Alabama Real Estate Commission. Commissioner Wright made a motion that the resolution honoring the distinguished service of Commissioner Steve Cawthon be spread upon the minutes of the September 28, 2017 meeting. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Commissioner Sharp made a motion to approve the minutes from the August 24, 2017 meeting. Commissioner Denney seconded the motion and it passed unanimously 8-0.

Executive Director Anderson presented the August 2017 financials. Money has been transferred from Investments to the Operating Fund for completion of Fiscal Year 2017. The goal for FY 2018 is to not transfer any money from the reserves. Revenues are up and expenditures are down a bit; therefore, the transfer was not as much as first anticipated. Results from the Compliance Audit performed by the Examiners of Public Accounts for Fiscal Years 2015 and 2016 were discussed. There was one finding for this examination period that is currently being debated between the State Comptroller’s Office and the Examiners Office.

Chairman Watts inquired about the Licensing Report. Currently there are 29,650 licensees. The number of people seeking a real estate license appears to be increasing, with 3,184 having taken the salesperson license exam at the end of August 2017 as compared to 2,954 salesperson exams during the same period in 2016. The number of brokers exams are

down very slightly. As of September 1, 2017, the Pass Rate for all salespersons is at 50.6% for 2017.

The Investigative File Reports were also discussed. The Real Estate Commission receives a large array of complaints from individuals and our Investigators investigate every complaint that is received. Plans are being implemented to focus attention on the complaints that we have jurisdiction over rather than those we do not.

Commissioner Cawthon made a motion that Commissioners conduct disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Denney seconded the motion and it passed unanimously 8-0.

HEARINGS AND APPEARINGS

Jason Manley Patton, Applicant for Determination of License Eligibility, Investigative File I-15,099

Upon discussion of the evidence and testimony presented by Mr. Patton regarding his application for determination of license eligibility, Commissioner Cawthon made a motion to approve his application. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Cherell Beal, Formal Complaint No. 3430

Cherell Beal, Inactive Salesperson, Lincoln, Alabama, was charged on Count 1 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(14) by accepting a commission or other valuable consideration for performing an act for which a license was required from any person other than her broker, and charged on Count 2 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(26) by exhibiting conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness by charging an additional fee to a party in a real estate transaction that is not charged by the company with which she was licensed.

Upon discussion of the evidence and testimony provided by Ms. Beal, Commissioner Sharp made a motion to find her guilty on both counts. Commissioner Wright seconded the motion and it passed unanimously 8-0. Commissioner Poe made a motion to revoke her license on both counts, Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Roderick Jerome Tate, Jr., Applicant for Determination of License Eligibility, Investigative File I-15,128

Mr. Tate was not present and, since he did not receive proper service, a continuance was granted.

Mary Beth Gunter, Applicant for Original Salesperson’s License after Lapsed Temporary License, Investigative File I-15,130

Upon discussion of the evidence and testimony presented by Ms. Gunter regarding Commission approval for her to apply for the original salesperson’s license after failing to meet the one-year deadline, Commissioner Harrison made a motion to approve a 30-day extension. Commissioner Poe seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Phillip Ryan Oswald, Formal Complaint No. 3431

Commissioner Denney recused herself from the hearing and voting on this case.

Phillip Ryan Oswald, Inactive Temporary Salesperson, Northport, 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.” Respondent continued to perform as an active licensee after his temporary license had expired.

Upon discussion of the evidence and testimony presented by Mr. Oswald, Commissioner Cawthon made a motion to find Mr. Oswald guilty, suspend him for six months beginning September 28, 2017 and fine him \$2,500. Commissioner Miller seconded the motion and it passed 7-0.

Christie D. Taylor, Applicant for Re-licensure after Revocation, Investigative File I-14,843

Upon discussion of the evidence and testimony presented by Ms. Taylor regarding Commission approval for re-licensure after license revocation, Commissioner Harrison made a motion to deny the request. Commissioner Wright seconded the motion and it passed 7-1 with Commissioner Miller voting against the motion.

Cynthia C. Atkinson, Hardship Request for Home Office, Investigative File I-15,137

Ms. Atkinson was unable to attend the meeting due to the death of her husband. A continuance until the October meeting was granted by the Commission.

NOT APPEARING ITEMS FOR DISCUSSION

Alabama Real Estate Commission vs. William Peebles, Formal Complaint No. 3432

William Peebles, Salesperson, NAI Mobile LLC, Mobile, Alabama, was charged with violating 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 financial institution upon which it was drawn. Commissioner Sharp made a

motion to find Mr. Peebles guilty and fine him \$250. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Confirm October Meeting Date and Location for the Record: October 26, 2017, 9:00 a.m. in Montgomery.

Commissioner Denney made a motion to confirm the October meeting date and location. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at noon.

Done this 28th day of September, 2017.

Bill Watts, Chairman

Barbi Lee, Recording Secretary