

MINUTES

A meeting of the Alabama Real Estate Commission was held September 24, 2015 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Nancy Wright; Commissioners Steve Cawthon, Reid Cummings, Cindy Denney, Carole Harrison, Dorothy Riggins-Allen and Danny Sharp; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly, Phil Bunch and K. C. Baldwin; and Auditor Anthony Brown. Commissioner Clif Miller was absent with notice. The Hearing Officer was Tori Adams.

Other staff members in attendance for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham and Information Technology Manager Brett Scott.

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

Executive Director Patricia Anderson presented the August 2015 financial report. There has continued to be an increase in the number of temporary and original salesperson licenses issued, resulting in an increase in revenue. There were no Recovery Fund payouts in the August. The end-of-year financial report for FY2015 and the FY2017 budget will be presented at the October Commission meeting. The State of Alabama is working on closing out FY2015; therefore, the Commission's Accounting Division will not be able to process any reimbursements or invoice payments until after October 5.

An update on the North Carolina Dental Board case was presented at the Alabama Association of Regulatory Board's (AARB) Leadership Conference on September 22, 2015. The Federal Trade Commission has not yet presented the white paper on this issue, thus delaying further action regarding the creation of a state oversight office to monitor boards and commissions. AARB is preparing legislation for the 2016 legislative session regarding the establishment of an oversight office, in the event there is a need for an office. If the oversight office is established, each board and commission may be required to pay up to \$5 per licensee to cover the cost. North Carolina has currently passed no legislation addressing oversight.

Ms. Anderson provided an overview of the Association of Real Estate License Law Officials 2015 Annual Conference. Alabama was well represented by Commissioners and staff members. Commissioner Cawthon praised sessions presented on law cases, best practices and the Consumer Financial Protection Bureau's new residential mortgage Loan Estimate and Closing Disclosure rules that will go into effect on October 3, 2015. Ms. Anderson also reported on the Alabama Association of REALTORS® 2015 Annual Convention that was held September 13-16 in Point Clear, Alabama. Commission General Counsel Chris Booth presented a session on Alabama License Law. There was also a Commission forum that allowed convention attendees to ask questions of and receive updates from the Commissioners.

The proposed 2016 meeting calendar was presented. Chairman Watts stated that the Alabama Association of REALTORS® 2016 Summer Meeting dates could be removed because that meeting has

been cancelled. Commissioner Wright made a motion to approve the 2016 calendar as amended. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

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

HEARINGS

Darren Lee Flott, Application for Determination of Licensing Eligibility, Investigative File I-14,647

Upon discussion of the application for determination of licensing eligibility submitted by Mr. Flott, Commissioner Cawthon made a motion to deny his application. Commissioner Denney seconded the motion and it passed 7-1. Commissioner Cummings abstained.

Alabama Real Estate Commission vs. William R. Miller, Formal Complaint No. 3370

William R. Miller, Qualifying Broker, Gulf South Properties LLC, Spanish Fort, Alabama, was charged on Count 1 with violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(23)(a) by having entered a plea of guilty or nolo contendere to, or having been found guilty of, or convicted of a felony or a crime of moral turpitude; charged on Count 2 with violating *Code of Alabama* 1975, as amended, Section 34-27-31(j) for failing to notify the Commission within ten days of the institution of a criminal prosecution against him; and charged on Count 3 with violating *Code of Alabama* 1975, as amended, Section 34-27-31(k) by failing to notify the Commission within ten days of the rendering of a criminal verdict against him. Upon discussion of the evidence and testimony presented in the matter, Commissioner Cummings made a motion to find him guilty on Count 1. Commissioner Sharp seconded the motion and it passed unanimously 8-0. Commissioner Cummings made a motion to find him guilty on Count 2. Commissioner Sharp seconded the motion and it passed unanimously 8-0. Commissioner Cummings made a motion to find him guilty on Count 3. Commissioner Sharp seconded the motion and it passed unanimously 8-0. Commissioner Cummings made a motion to fine him \$2,500 on Count 1. Commissioner Wright seconded the motion and it passed unanimously 8-0. Commissioner Sharp made a motion to fine him \$1,000 per count on Counts 2 and 3. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Hong K. Park, Formal Complaint No. 3372

Hong K. Park, Qualifying Broker, Park Real Estate, Huntsville, Alabama, was charged on Count 1 with violating *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 and charged on Count 2 with violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(31) by failing to keep in his files a copy of an original listing agreement and failing to obtain and keep a copy of the confirmation of the ending of a listing for a period of three years. Upon discussion of the evidence and testimony presented in the matter, Commissioner Wright made a motion to find him guilty on Count 1. Commissioner Cummings seconded the motion and it passed unanimously 8-0. Commissioner Wright made a motion to find him guilty on Count 2. Commissioner Cummings seconded the motion and it passed unanimously 8-0. Commissioner Cummings made a motion to fine him \$250 per count for Counts 1 and 2. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. David A. Phillips and American Dream Investment Strategies and Property Management, LLC, Formal Complaint No. 3374

David A. Phillips, Qualifying Broker, American Dream Investment Strategies and Property Management LLC, Pleasant Grove, Alabama; Associate Broker, Cliff Development Sales and Appraisals Inc., Pleasant Grove, Alabama; Licensed Continuing Education Instructor, Pleasant Grove, Alabama was charged on Count 1 with violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)a by failing, within a reasonable time, to properly remit money coming into his possession which belongs to others and commingling money belonging to others with his own funds; charged on Count 2 with violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)b. by failing to deposit and account for at all times all funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama; charged on Count 3 with violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by violating Section 34-27-30 and setting up a property management operation outside the knowledge and control of his Qualifying Broker ; and charged on Count 4 with violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) via Alabama Real Estate Commission Rule 790-X-1-.17(3) should Mr. Phillips, as an approved continuing education instructor, be found guilty of violations outlined in Counts 1-3. Upon discussion of the evidence and testimony presented in the matter, Commissioner Cawthon made a motion to find Mr. Phillips and American Dream Investment Strategies and Property Management LLC guilty on Count 1 and fine them \$2,500 each. Commissioner Wright seconded the motion and it passed 7-0. Commissioner Watts abstained. Commissioner Cawthon made a motion to find Mr. Phillips and American Dream Investment Strategies and Property Management LLC guilty on Count 2 and revoke both licenses. Commissioner Harrison seconded the motion and it passed 7-0. Commissioner Watts abstained. Commissioner Cawthon made a motion to find Mr. Phillips guilty on Count 3. Commissioner Wright seconded the motion and it passed 7-0. Commissioner Watts abstained. Commissioner Cummings made a motion to find Mr. Phillips guilty on Count 4 and revoke his instructor approval. Commissioner Sharp seconded the motion and it passed 7-0. Commissioner Watts abstained.

NOT APPEARING ITEMS FOR RULING

Erica K. Whitt, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3373

Upon review of the evidence and testimony presented in the matter of Erica K. Whitt, Salesperson, Keller Williams Realty, Huntsville, Alabama, and her alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) by presenting a check to the Commission which was returned unpaid by the bank upon which it was drawn, Commissioner Cawthon made a motion to find her guilty and fine her \$250. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Melanie Alise Brown-McGriff, Application for Determination of Licensing Eligibility, Investigative File I-14,651

Upon review of Ms. Brown-McGriff's application for determination of licensing eligibility, Commissioner Cawthon made a motion to deny her request. Commissioner Cummings seconded the motion and it passed unanimously 8-0.

Tasha Lynn Wheeler, Application for Real Estate Salesperson's Reciprocal License, Investigative File I-14,653

Upon review of Ms. Wheeler's application for a reciprocal salesperson's license, Commissioner Wright made a motion to approve her application. Commissioner Cummings seconded the motion and it passed 6-2. Commissioners Cawthon and Denney voted against the motion.

Robin Malone (Gillenwaters), Request for Extension to Take and Pass the Salesperson's Examination, Investigative File I-14,660

Upon review of Ms. Malone's request for a two-month extension to take and pass the salesperson's examination, Commissioner Cummings made a motion to approve her request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Confirm Next Meeting Date and Location for the Record: October 22, 2015, 9:00 a.m., Montgomery

Commissioner Wright made a motion to approve the date of the October meeting for October 22, 2015 at 9:00 a.m. in Montgomery. Commissioner Cummings seconded the motion and it passed unanimously 8-0.

Confirm Next Meeting Date and Location for the Record: November 18, 2015, 9:00 a.m., Montgomery

Commissioner Cawthon made a motion to approve the date of the November meeting for November 18, 2015 at 9:00 a.m. in Montgomery. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Executive Director Patricia Anderson conducted an annual performance review of Assistant Executive Director Teresa Hoffman. After expressing satisfaction with her exemplary performance, Ms. Anderson recommended to the Commissioners that Ms. Hoffman receive a 5% salary increase. The Commissioners voted unanimously, 8-0, to approve the salary increase effective upon receiving the requisite state government system approvals.

There being no further business, the meeting adjourned at 2:20 p.m.

Done this 24th day of September 2015.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary