

MINUTES

The Alabama Real Estate Commission met August 27, 2004, at the Birmingham Association of Realtors, 3501 Independence Drive, Homewood, Alabama.

Those present were Chairman Bill Poole; Vice Chairman Gordon Henderson; Commissioners Roy Bragg, Thomas Hays, Bobby Hewes, Sheila Hodges, Lyman Lovejoy, Chester Mallory and Ruth Whitley; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Special Investigators David Erfman and Chuck Kelly and Auditor Anthony Brown. Assistant Attorney General Tori Adams-Burk served as Hearing Officer.

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

Chairman Poole expressed appreciation to the Birmingham Association of Realtors for the use of their facilities. Jewel Buford, incoming 7th District Commissioner, was welcomed and present to observe.

When the Chair called for approval of the July 30 Minutes, the Executive Director reported that the motion regarding reimbursement to the Real Estate Research Center following the revision of the Consumer Information Booklet had been omitted. The following amendment was offered: Upon receipt and review of correspondence from Dr. Leonard V. Zumpano, Executive Director of the Alabama Real Estate Research and Education Center, Commissioner Hodges moved to approve the Commission reimbursing the Center for copies of the Consumer Information Booklet already published and ordered by the Commission before the recently requested revision submitted by the Commission. Commissioner Bragg seconded the motion and it passed unanimously 8-0. Commissioners further expressed their appreciation to Commissioner Whitley for her editing work on the revision and to the Center for its cooperation in making the edited revisions. The Executive Director was requested to convey this action to Dr. Zumpano.

Commissioner Bragg, noting a contextual error on the last page, moved approval of the July 30 Minutes as amended. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

In further discussion, the Commission determined it would participate in the Open Forum scheduled for the Commission at the annual convention of AAR in Chattanooga. The Chair gave notice of intent to the possibility of a special call meeting in Chattanooga. Having agreed it was in the Commission's future legislative interest to explore a variety of issues and strategies with AAR

leadership, the Commission would be in a position to take any official action that might become necessary during the course of the various meetings.

In his report, Executive Director Philip Lasater distributed and highlighted aspects of the July financial statement. The June statements were included with the mailing of the packets. Of particular note was the increase in license issuance resulting from the increase in the number of examinees, which in turn resulted in an increase in revenue over projections. He reported on the initiation of SMART budgeting, a performance based planning and measurement management of budgeting that the Finance Director is introducing this next fiscal year to be phased in over the next three.

Assistant Executive Director Pat Anderson was recognized to review proposed education rules for adoption. In Proposed amendment to Rule 790-X-1-.06, due to comments received and for clarification purposes, the following words were added to the first sentence of paragraph (5)(b)".....when a detailed outline is not provided by the Commission." Also added in paragraph (5) (b) for clarification purposes are the words "by each instructor". In proposed amendment to Rule 790-X-1-.10, due to a recent rule change in Rule 790-X-1-.11 to require all real estate licensees complete a course in Risk Management, the last sentence of paragraph 6 was left in because the Commission will supply the outline to instructors. Every instructor will be required to use the same course materials so there will not be a course review fee required for those teaching Risk Management. In paragraph 7, the reference to Rule 790-X-1-.11(5) (d) was deleted since paragraph 5 in Rule 790-X-1-.11 was deleted in a recent change to that rule. In proposed amendment to Rule 790-X-1-.12, due to comments received, the words "in attendance" in paragraph 2 were changed to "completing the course" in order to better fit not only classroom courses but also distance education courses. The words "to teach the course" were added to the first sentence of paragraph 4 in order to give greater clarity. Commissioner Hewes moved to approve the amendments to rules Rules 790-X-1-.10, .06, .12. Commissioner Mallory seconded the motion and it passed unanimously 9-0. Commissioner Mallory moved to adopt all Rules 790-X-1-.06, .07, .09, .10, .11, .12, .14, .16, .21, and 790-X-2-.02, .22, and .23. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

Pat Anderson then provided a summary overview of CMAP Course Management Application Program. This program will be how instructors report licensee credit electronically to the Commission. It will be presented in detail at the October Instructors Seminar.

Commissioner Bragg moved to permit June broker examinees to the same license issuance option as July, August, and September examinee applicants which is contained in the memorandum prepared for AMP to distribute to exam candidates. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

HEARINGS

Alabama Real Estate Commission vs. John G. Moss, Jr., Formal Complaint No. 2810

Upon discussion of the evidence and testimony presented in the matter of John G. Moss, Jr., Qualifying Broker, Moss Properties, Inc., Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to notify the Commission of a civil suit against him within ten days pursuant to the Code of Alabama 1975, as amended Section 34-27-31(j); Count 2: Section 34-27-36(a)(19) by failing to notify the Commission of the institution of criminal prosecution against him within ten days pursuant to the Code of Alabama 1975, as amended, Section 34-27-31(j); Count 3: Section 34-27-36(a)(26) by exhibiting conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness, Commissioner Bragg moved to find Mr. Moss guilty on all three counts and to revoke his license. Commissioner Hodges seconded the motion and it passed unanimously 8-0. Commissioner Hays having recused himself from the hearing did not vote.

Chad Matthew Clark, Applicant for Determination of Licensing Eligibility, I-11,334

Upon discussion of the Application for Determination of Licensing Eligibility submitted by Mr. Clark, Commissioner Hays moved to approve the license eligibility of Mr. Clark. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

Denise D. Cosby, Applicant for Temporary Salespersons License, I-11,363

Upon discussion of Denise Cosby's application for temporary license, Commissioner Hodges moved to deny Ms. Cosby's application. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

April M. Sharpe, Applicant for Temporary Salesperson's License, I-11,405

Upon discussion of Ms. Sharpe's application for temporary salesperson license, Commissioner Hays moved to approve the application for a temporary license to April M Sharpe. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

Donah Bigham, Requests Renewal of Lapsed License, I-11,381

Upon discussion of Ms. Bigham's request to renew her lapsed license, Commissioner Hodges moved to deny Ms. Bigham's hardship renewal request. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

NOT APPEARINGS

Alabama Real Estate Commission vs. Carol Y. Milstead, Formal Complaint No. 2822

Upon discussion of the evidence and testimony presented in the matter of Carol Y. Milstead, Commissioner Hodges moved to dismiss formal complaint No. 2822. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

Lachondria Crockett, Applicant for Determination of Licensing Eligibility, I-11,408

Upon discussion of Ms. Crockett's eligibility for licensure, Commissioner Mallory moved to deny Ms. Crockett's license eligibility. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Suzanne D. Gardner, Formal Complaint No. 2820

Upon discussion of the evidence and testimony presented in the matter of Suzanne D. Gardner, Temporary Salesperson, Beautiful South Realty, Birmingham, Alabama, and the alleged violation of 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 bank upon which it was drawn, Commissioner Hewes moved to find Ms. Gardner guilty and to fine her \$250. Commissioner Hays seconded the motion and it passed unanimously 9-0.

L.A. Bell, Applicant for Determination of Licensing Eligibility, I-11,403

Upon discussion of Mr. Bell's application for determination of licensing eligibility, Commissioner Hays moved to approve Mr. Bell's license eligibility. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

Jack Ripley Holsombach, Applicant for Determination of Licensing Eligibility, I-11,404

Upon discussion of Mr. Holsombach's application for determination of licensing eligibility, Commissioner Hays moved to approve licensing eligibility for Mr. Holsombach. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

Anita Walker, Requests Ruling for Home Operation Hardship I-11,413

Upon discussion of Ms. Walker's request for place of business hardship waiver, Commissioner Hewes moved to approve the hardship waiver request of Ms. Walker for home operation. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

Dorothy Shepherd, Applicant for Determination of Licensing Eligibility, I-11,401

Upon discussion of Ms. Shepherd's licensing eligibility, Commissioner Hays moved to deny the application of Ms. Shepard for determination of license eligibility. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

Collis D. Cannon, Applicant for Determination of Licensing Eligibility, I-11,400

Upon discussion of Mr. Cannon's licensing eligibility, Commissioner Hodges moved to deny the application of Mr. Cannon for determination of license eligibility. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

Lizzie Solomon, Applicant for Temporary Salesperson's License, I-11,430

Upon discussion of Ms. Solomon's application for temporary salesperson's license, Commissioner Henderson moved to approve the application of Ms. Solomon. Commissioner Hays seconded the motion and the motion passed unanimously 9-0.

There being no further business, the Commission adjourned at 2 p.m.

Done this 27th day of August, 2004.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary