

MINUTES

A meeting of the Alabama Real Estate Commission was held February 17, 2012, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Steve Cawthon; Commissioners Jewel Buford, Reid Cummings, Carole Harrison, Clif Miller, Danny Sharp 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. Commissioner Dorothy Riggins-Allen was absent with notice.

Other staff in attendance for part or all of the meeting were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, Interim Information Technology Manager Brett Scott, Accounting and Personnel Manager Molli Jones, Education Specialists Pam Oates and Julie Norris.

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

Commissioner Cawthon made a motion to approve the January minutes as presented. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

Mr. Lasater referenced the January financial statement. He noted that application numbers are down about 40% from 2010. This is an indicator of what feeds applications for temporary licenses, original licenses and ultimately what will be renewed. Expenditures are under projection except supplies which is reflective of preparation for the upcoming license renewals.

Mr. Lasater noted that we are monitoring some legislation. The Public Accountancy Board has introduced a bill that would eliminate the need to collect social security numbers at renewal time. Representative Howard Sanderford is the sponsor in the House and Senator Paul Bussman is the sponsor in the Senate. It received a favorable report in the House the previous week. We are hopeful this bill will pass.

CJIS (Criminal Justice Information System) is having a bill introduced that has failed to pass in the last three years. If it passes we will be able to do the criminal background checks electronically. We continue to support this bill.

HB 150 and SB 222 require agencies to complete economic impact statements for all rules and proposed rules. If it passes in its current form, all Licensing Boards will be affected although it appears that the main intent of the bill is to address impact on small businesses that

create jobs. Potential affect on the Commission and other Licensing Boards is being called to the attention of legislators with the hope of amendment.

Mr. Lasater shared with Commissioners that Accounting and Personnel Manager Molli Jones will retire April 1 to assist in meeting health needs of her mother. We will miss Molli but support her in this decision. We have begun the process to fill the projected vacancy.

Chairman Watts inquired as to whether or not there is a fund for large maintenance projects such as roof replacement. Mr. Lasater explained that we plan and provide for such projects in the budget. Chairman Watts then inquired about energy efficiency of the building and whether or not any research has been done in this regard. Mr. Lasater informed Commissioners that the Commission has a staff member who serves on the energy task force set up by the Governor. As a result the Commission has changed out all of the light bulbs to the most energy efficient ones, the building has thermal pane windows, the heating and cooling as well as the exterior lights are on timers, some interior lights have motion sensors and the insulation has been upgraded. We participate in the energy audit program that the state pays for and is provided by Alabama Power Company.

Commissioner Wright gave a report on the meeting held this morning of the Task Force for Review and Award of Grants. She reported that it was the consensus of the task force not to pursue the awarding of grants. Commissioner Wright made the following motion: establish a standing committee to develop long term planning charged to capital initiatives in the Strategic Plan to develop contracting for needs identified in the Strategic Plan. The motion passed unanimously 8-0.

Mr. Lasater reported that he had opportunity to visit with Dr. Don Epley and tour the Mitchell School of Business at the University of South Alabama when he went to hear former Commissioner Sheila Hodges speak there. They have a fine facility and clearly a strong program. Their stated mission of serving Mobile and Baldwin Counties is demonstrably excellent. They have a significant role in serving economic development interests statewide. Dean Hardin at the University of Alabama has a deep rooted philosophy about collaboration. From an Alabama Real Estate Commission standpoint, the Commission stands ready to be in conversation and communication and networking with any center at any school in Alabama. We will invite and seek out continued cultivation of relationships where mutual benefit can be derived from that.

Commissioner Cummings reported that he went to Tuscaloosa and visited with Mr. Grayson Glaze, Executive Director of ACRE (Alabama Center for Real Estate) and then with Dr. Mike Hardin, Dean of the Culverhouse School of Business at the University of Alabama. He said that Dr. Hardin was very interested in collaboration both between departments in the School of Business and with other universities in the state. The Commission has the opportunity to invite that collaboration which will better serve the real estate industry in Alabama.

Commissioner Cawthon reported that at the last Commission meeting a motion was passed as recommended by the Task Force for Continuing Education to change Rule 790-X-1-.11 regarding the required 15 hours of continuing education. After further research the task force discovered there are several issues to consider regarding requiring classroom only courses for the proposed 6 hours of mandatory CE courses. Upon discussion of the new research, Commissioner Cawthon made a motion on behalf of the task force to drop the requirement for live classroom instruction which will then allow for the courses to be taught through distance education as well. The motion passed unanimously 8-0 and the rule was approved as follows to begin the rule making process.

Rule 790-X-1-.11. Course Content for Continuing Education.

(1) To meet continuing education requirements, licensees shall complete fifteen (15) clock hours each license period as set out below beginning October 1, 2012:

(a) Three (3) clock hours in Risk Management – Level 1. In this level, brokers and salespersons shall take the Risk Management: Avoiding Violations course.

(b) Three (3) clock hours in Risk Management – Level 2. In this level, all brokers shall take the Risk Management for Brokers course. Salespersons shall take the Risk Management for Salespersons course, the Risk Management for Brokers course, or an industry-specific Risk Management course approved for Level 2 credit by the Commission.

~~(b)~~ (c) Twelve (12) Nine (9) clock hours in Commission-approved elective courses

~~(2) In order to meet the requirement of (1)(a) of this rule, each student enrolled in a classroom course shall be provided with the Alabama Center for Real Estate's (ACRE) copyrighted Risk Management manual which is the most current edition.~~

~~(3)~~ (2) The curriculum for continuing education courses offered for elective credit shall consist of subjects which are "core" real estate and which will assist the licensee in fulfilling the Commission's objective of protecting the public. Some examples of acceptable subject matter are License Law, RECAD (Real Estate Consumer's Agency and Disclosure Act), real estate ethics, real estate financing, appraisal and valuation, fair housing, truth-in-lending, agency relationships, agency disclosure, liability of real estate agents, writing contracts, handling escrow funds, environmental issues, negotiating techniques, listing and buyer presentations, writing and presenting offers, showing property, sales skills, communication skills, marketing, certain financial calculator courses, computer courses which are real estate specific and how to utilize technology in the practice of real estate. Examples of unacceptable subject matter are motivational courses, personal development courses, sales meetings, in-house training and orientation courses. All course topics and content are subject to approval by the Commission.

Assistant Attorney General Chris Booth gave three reports to Commissioners. The first one was a Time Share Registration report showing an increase in 2010-2011 in advertisement submissions largely due to Marriott. Otherwise it showed new and renewed registrations, amendments and registration terminations. The second report was an update on recovery fund cases. Mr. Booth stated there are about two dozen cases being monitored or worked at a time and the Commission usually has four to five payouts per year. He does not perceive any recovery fund shortage at this time. The last report was an update on Lawsuit Notifications. Mr. Booth made Commissioners aware that this is a new report that staff has just started developing since the hiring of a new Legal Assistant. Commissioner Watts requested that this report be expanded to include whether the licensee is a salesperson or broker which could be helpful in planning education courses.

Commissioner Cawthon made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in open session. Commissioner Miller seconded the motion and it passed unanimously 8-0.

HEARINGS

Alabama Real Estate Commission vs. Ken Faught and Arrice K. Faught, Formal Complaint No. 3252

Upon discussion of the evidence and testimony presented in the matter of Ken Faught, Qualifying Broker, Crimson Realty LLC, Tuscaloosa, Alabama (Formerly Associate Broker, Reinhart Enterprise d/b/a Capital Real Estate, Tuscaloosa, Alabama) and Arrice K. Faught, Associate Broker, Crimson Realty LLC, Tuscaloosa, Alabama (Formerly Associate Broker, Reinhart Enterprise d/b/a Capital Real Estate, Tuscaloosa, Alabama) and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(14) in that Respondents Ken Faught and Arrice Faught accepted a commission or other valuable consideration from Deborah Harland, who was not their qualifying broker, for leasing Mr. and Mrs. Harland's property at Moundville, Alabama, while they were licensed at Capital Real Estate; Count 2: Section 34-27-36(a)(14) in that Respondent Ken Faught accepted a commission or other valuable consideration from Allen Harland, who was not his qualifying broker, for leasing Mr. Harland's property at Tuscaloosa, Alabama, while he was licensed at Capital Real Estate; Count 3: Section 34-27-36(a)(29) by failing within a reasonable time to provide information and documents in response to a letter from the Commission, during an investigation, as to whether or not Respondents collected rental commission payments directly and the letter specifically asked for an explanation regarding the documents for the transaction; Commissioner Buford made a motion to accept the surrender of Ken Faught's broker's license. Commissioner Cawthon seconded the motion and it passed unanimously 8-0. Commissioner Cummings made a motion to dismiss the complaint against Ms. Arrice Faught. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Michael Brian Bowe, Formal Complaint No. 3257

Upon discussion of the evidence and testimony presented in the matter of Michael Bowe, Salesperson for Total Realty Services, Inc., d/b/a Exit Total Realty, Huntsville, Alabama, and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(23)a. in that Respondent Michael Bowe entered a plea of guilty or nolo contendere to, or was found guilty of or convicted of a felony or a crime involving moral turpitude in case number CC 2010-2302; Count 2: Section 34-27-31(j) in that Respondent Michael Bowe failed to notify the Commission within ten days of the institution of criminal prosecution in the matter of case numbers CC-2010-2302, CC 2011-2192, and CC 2011-2934; Count 3: Section 34-27-31(k) in that Respondent Michael Bowe failed to notify the Commission within ten days of his entering a guilty plea and thus having a criminal verdict rendered against him in the matter of case number CC-2010-2302; Commissioner Cawthon made a motion to revoke Mr. Bowe's license on Count 1 and to fine him \$1,000 each on Counts 2 and 3. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Aaron R. Pugh, Formal Complaint No. 3258

Upon discussion of the evidence and testimony presented in the matter of Aaron R. Pugh, Inactive Salesperson's license, Robertsdale, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) via the Code of Alabama 1975, as amended, Section 34-27-31(e)(6) by having a payment made from the Alabama Real Estate Recovery Fund toward the satisfaction of a judgment in a civil action for which Respondent's real estate license may be terminated; Commissioner Cummings made a motion to revoke Mr. Pugh's license. Commissioner Buford seconded the motion and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR RULING

Toni Wharton, Hardship Request to Renew Lapsed Salesperson License, I-13,789

Upon review of the hardship request by Ms. Wharton for Commission approval to renew her lapsed salesperson's license, Commissioner Buford made a motion to deny the request. The motion died for lack of a second. Commissioner Cawthon made a motion to approve Ms. Wharton's request. Commissioner Miller seconded the motion and it passed 5-3 with Commissioners Buford, Harrison and Sharp voting no.

Hayley Catlin Praytor, Request for Extension to File an Application for Original Salespersons License, I-13,797

Upon review of Ms. Praytor's request for Commission approval to make late application for an original salesperson's license, Commissioner Buford made a motion to deny the request. Commissioner Harrison seconded the motion and it passed 7-0 with Commissioner Cummings abstaining.

Walter Whitlow, Waiver of Hearing and Plea of Guilty, Formal Complaint No 3250

Upon review of the evidence and testimony presented in the matter of Walter Whitlow, Inactive Broker, Montgomery, 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 Cawthon made a motion to accept Mr. Whitlow's guilty plea and fine him \$250. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Confirm Next Meeting Date and Location for the Record: March 23, 2012, at 9:00 a.m. in Montgomery

Commissioner Cawthon made a motion to approve the next Commission meeting date and location for March 23, 2012, at 9:00 a.m. in Montgomery, Alabama. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 11:10 a.m.

Done this 17th day of February, 2012.

Bill Watts, Chairman

Patricia Anderson, Recording Secretary