

MINUTES

A meeting of the Alabama Real Estate Commission was held February 19, 2014 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 Jewel Buford, Steve Cawthon, Carole Harrison, Clif Miller, Dorothy Riggins-Allen and Danny Sharp; Executive Director Patricia Anderson; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly, Phillip Bunch, and K. C. Baldwin. Commissioner Reid Cummings was absent with notice.

Other staff members present for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham and IT Manager Brett Scott.

The meeting having been duly noticed according to the Alabama Open Meetings Act, was called to order at 1:00 p.m. by Chairman Bill Watts and a quorum was declared.

Commissioner Cawthon made a motion to approve the minutes from the January 23, 2014 meeting. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

The reappointment of Commissioners Nancy Wright and Clif Miller to the Commission was confirmed by the governor; therefore, Commissioners elected a chairman and vice chairman as mandated in Alabama License Law. Commissioner Cawthon made a motion to retain the current Commission Chairman Bill Watts and Vice Chairman Nancy Wright. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

Ms. Anderson reported on the financials stating that they are still good, as revenues are still exceeding projection and expenditures are still under projection. There was a transfer of \$750,000 of the \$2.1 million in investments into the revenue fund. This was the first transfer from the FY14 renewal funds that were invested.

Reporting on real estate examinations, Ms. Anderson noted that the Commission has had the largest number of people take the real estate exam in January 2014 since 2008. There was an increase in examinations in 2013; however, January 2014 exam numbers are already significantly ahead of January 2013. The Commission typically loses 4,000 licensees per renewal year, but in 2008 and years prior that number has balanced out in the number of new licensees gained over the two-year renewal period. This has not been the case, however, from 2009 to current. Exam statistics have been tracked since 1976 and the trend has been that revenues generally track directly based on the economy. The increase in exams is a likely indicator that the economy is rebounding.

Ms. Anderson reminded Commissioners that the 2014 ARELLO® Midyear Meeting will be held April 9-12 in San Diego. The meeting ends at noon on April 12 and, because the meeting is on the west coast, the governor's office has approved for attendees to return on April 13. She asked Commissioners to please make sure that the travel dates they provide for their out-of-state travel request matches the actual dates they plan to travel.

Commissioners were also reminded that the deadline for filing the Statement of Economic Interests is April 30, 2014. A link to the Ethics Commission website is on the Commissioner website.

Commissioners were provided with a list of Commission staff members and photos to assist them in becoming more familiar with staff.

Mr. Booth updated Commissioners on the current appeals and recovery fund payouts. He will be traveling to Huntsville for Val Moore's appeal. Steve Hodge, from the Dothan area, has received a stay and Mr. Booth is waiting for the judge to set a hearing date. Michael Bedsole in Lee County did not get a stay and should not be operating. Mr. Booth is waiting for the judge to set a hearing date in his case, as well. The Commission has received a request for a recovery fund payout for Philip C. Ledbetter on one of his two cases. Mr. Ledbetter will eventually reach the \$50,000 maximum payout. David Martin surrendered his license.

Chairman Watts announced that the Alabama Center for Real Estate (ACRE) bill (HB416) has passed out of the House Committee on Boards, Agencies and Commissions and gone to the Senate Fiscal Responsibility and Accountability Committee with an amendment that the implementation date be moved to June 1, 2014 from the original date of October 1, 2014. There was discussion by the House committee members regarding funding for the University of South Alabama's Center for Real Estate and Economic Development; however, the committee determined that USA's funding was a separate issue and did not address it before voting on the bill.

Chairman Watts expressed a need for Commissioners to go into an executive session to receive advice from General Counsel Mr. Booth. Commissioner Wright made a motion that Commissioners go into an executive session to receive advice from General Counsel. Commissioner Sharp seconded the motion and it passed unanimously 8-0. Commissioners entered into executive session at 2:15 p.m. and resumed in open session at 2:25 p.m.

Commissioner Wright made a motion that Commissioners conduct hearing disposition discussions and decisions in open meeting. Commissioner Miller seconded the motion and it passed unanimously 8-0.

HEARINGS AND APPEARINGS

James J. Blake, Application for Reciprocal Broker License, I-14,217

Mr. Booth noted that Mr. Blake did not receive the statutory 15 days' notice; however, he agreed to have his case be heard by Commissioners as a not appearing item.

Upon discussion of the evidence and testimony presented regarding Mr. Blake's application for a reciprocal broker's license, Commissioner Riggins-Allen made a motion to deny his request. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Phillip J. McWhorter, Application for Temporary Salesperson's License, I-14,226

Upon discussion of the evidence and testimony presented by Mr. McWhorter regarding application for a temporary salesperson's license, Commissioner Sharp made a motion to approve Mr. McWhorter's application. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Alabama Real Estate vs. James Richard (Jim) Howard, Formal Complaint No. 3333

Upon discussion of the evidence and testimony presented in the matter of James Richard (Jim) Howard, Qualifying Broker, Heritage Resort Realty LLC, Orange Beach, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a real estate license is required from any person except his qualifying broker in that Respondent accepted a \$7,000 recurring monthly salary during calendar year 2012 for licensed activities directly from Heritage Motor Coach Resort & Marina/Duke Gibbs, both unlicensed entities; Count 2: Section 34-27-36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a real estate license is required from any person except his qualifying broker in that Respondent accepted a \$15,000 performance bonus payment directly from Heritage Motor Coach Resort & Marina/Duke Gibbs, both unlicensed entities; Commissioner Buford made a motion to find Mr. Howard guilty on Count 1 and fine him \$250. The motion failed for lack of a second. Commissioner Cawthon made a motion to find Mr. Howard guilty on Count 1 and revoke his license. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0. Commissioner Cawthon made a motion to find Mr. Howard guilty on Count 2. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0. Commissioner Wright made a motion to make the revocation effective immediately. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. James Edward Baker, Formal Complaint No. 3335

Upon discussion of the evidence and testimony presented in the matter of James Edward Baker, Associate Broker, Rise Real Estate, Inc., Huntsville, Alabama, and the alleged violations of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.03(2) "Each real estate salesperson or associate broker shall pay over to his or her qualifying broker all funds coming into his or her possession in trust for other parties immediately upon receipt of same."; Count 2: Section 34-27-31(j) by failing to notify the Alabama Real Estate Commission of the institution of the civil suit filed by Charles Dove which grew out of Respondent's representation of the seller of real property; Count 3: Section 34-27-36(a)(26) by exhibiting conduct which constitutes or demonstrates dishonest dealing, bad faith, or untrustworthiness in his accepting payment from the seller of real property for repair work on that property and failing to pay the contractor, rather keeping the funds for himself; Commissioner Buford made a motion to find Mr. Baker guilty on Count 1 and revoke his license, effective immediately. Commissioner Harrison seconded the motion and it passed unanimously 8-0. Commissioner Cawthon made a motion to find Mr. Baker guilty on Count 2. Commissioner Buford seconded the motion and it passed unanimously 8-0. Commissioner Buford made a motion to find Mr. Baker guilty on Count 3 and fine him \$2,500. Commissioner Riggins-Allen seconded the motion. After discussion, Commissioner Buford amended her motion to include immediate revocation of Mr. Baker's license. Commissioner Riggins-Allen seconded the amended motion and it passed unanimously 8-0.

Deidre L. Williams, Hardship Request to Submit Temporary Salesperson’s Application after 90-day Deadline, I-14,250

Upon discussion of Ms. Williams’ request for Commission approval to submit late application for a temporary salesperson’s license, Commissioner Miller made a motion to grant Ms. Williams’ request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR COMMISSION RULING

Gerald Boyd (Deanie) Buck, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3336

Upon review of the evidence and testimony presented in the matter of Gerald Boyd (Deanie) Buck, Salesperson, Fairhope Realty Group LLC, Fairhope, 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 Wright made a motion to find Ms. Buck guilty and fine her \$250. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Confirm Next Meeting Date and Location for the Record: March 20, 2014, 9:00 a.m. – Montgomery

Commissioner Wright made a motion to approve the next Commission meeting date and location for March 20, 2014 at 9:00 a.m. in Montgomery. Commissioner Miller seconded the motion and it passed unanimously 8-0.

There being no further business, the Commission adjourned at 3:40 p.m.

Done this 19th day of February, 2014.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary