

MINUTES

A meeting of the Alabama Real Estate Commission was held January 23, 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, Reid Cummings, 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; and Auditor Anthony Brown. Tori Adams served as Hearing Officer.

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 Watts reviewed the process Commissioners went through to fill the vacant Executive Director position. He explained that Commissioners conducted a national search, as required by law, and noticed the position through the Association of Real Estate License Law Officials (ARELLO®), the American Society of Association Executives (ASAE) and the State of Alabama. Upon completion of the extensive round of interviews, Commissioners named Assistant Executive Director Patricia Anderson as the new Executive Director. Ms. Anderson addressed Commissioners and staff thanking them for their support in the months following the death of Executive Director D. Philip Lasater.

Commissioner Riggins-Allen made a motion to approve the minutes from the November 21, 2013 meeting. Commissioner Miller seconded the motion and it passed unanimously 9-0.

Ms. Anderson reported on the November and December 2013 financials. Expenditures are under projection while revenues have exceeded projections. Revenues are down slightly from the first quarter of FY12 and down significantly from FY11; however, expenditures are trending downward when comparing FY11 and FY12. Investments are over \$6.8 million. This amount includes \$2.1 million from the FY14 renewal revenue that has been invested. The cash flow as of the end of December is \$474,000. Money will be pulled in from investments as needed throughout the remainder of the fiscal year.

Ms. Anderson updated Commissioners on the Homeowners' Association bill (HB137) that is currently in the Alabama legislature. The bill would require homeowners' associations to register annually with the Alabama Real Estate Commission. The Commission would be required to put a dispute resolution program in place and list all of the homeowners' associations on the website. The Commission investigators would not be required to investigate homeowners' associations. Research is being done by the Commission, in the event that the bill becomes law, to determine what resources the Commission would need to have in place before the law would become effective on January 1, 2015. Implementation would require Commissioners to adopt new rules to accommodate the

requirements of the law. Commissioner Cawthon recommended creating a task force to further study this issue and the Commission's role should the bill become law.

Chairman Watts reported that the Alabama Center for Real Estate (ACRE), through the Alabama Association of REALTORS® (AAR), is requesting additional funding. Since 1996, the Commission has collected \$2.50 per year for each year of the license period for ACRE's funding. Subsequent to discussion, Commissioner Cawthon made a motion to support ACRE's request for additional funding. Commissioner Sharp seconded the motion. Commissioner Cummings offered a friendly substitute motion that ACRE funding be increased a reasonable amount and that funding also be established for the University of South Alabama's Center for Real Estate and Economic Development. Commissioners Cawthon and Sharp accepted the substitute motion. The motion passed unanimously 9-0.

Commissioner Cawthon initiated discussion regarding a policy that would require the qualifying broker to be present when a licensee in his/her company has a hearing before the Commission. Mr. Booth recommended that Commissioners receive advice from counsel regarding this matter. Commissioner Cummings made a motion that Commissioners go into executive session to receive advice from the General Counsel. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Commissioners entered into Executive Session at 1:55 p.m. and resumed in open session at 2:10 p.m.

Commissioner Cawthon made a motion that Commissioners conduct hearing disposition discussions and decisions in open meeting. Commissioner Miller seconded the motion and it passed unanimously 9-0.

HEARINGS AND APPEARINGS

Alabama Real Estate Commission vs. Deangela Oreil Berryhill, Formal Complaint #3330

Ms. Berryhill received 15-days' notice, as required by law, but did not appear. Mr. Booth presented a prima facie case regarding her complaint.

Upon discussion of the evidence and testimony presented in the matter of Deangela Oreil Berryhill, Qualifying Broker, Berryhill Realty and Associates, Hampton, Georgia, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by violating or disregarding the order of the Commission to pay a fine in the amount of \$715 to replace a check that was returned in the amount of \$715, and to pay a \$30 bad check fee, Commissioner Cummings made a motion to revoke Ms. Berryhill's license. Commissioner Sharp seconded the motion and it passed unanimously 9-0.

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

Mr. Blake requested and was granted a continuance.

Robert Jacob Odom, Hardship Application for Renewal of Lapsed Broker's License, I-14,220

Upon discussion of the hardship request by Mr. Odom regarding renewal of his lapsed broker's license, Commissioner Cawthon made a motion to deny Mr. Odom's request. Commissioner Miller seconded the motion and it passed unanimously 9-0.

Magen Anne Reed, Salesperson's Reciprocal License Applicant, I-14,238

Ms. Reed's hearing was cancelled due to her failure to appear. Her request for licensure is denied on the staff level. She will have the option to reapply for a reciprocal salesperson's license.

Charles B. Christian, Hardship Application for Renewal of Lapsed Broker's License, I-14,232

Upon discussion of the hardship request by Mr. Christian regarding renewal of his lapsed broker license, Commissioner Riggins-Allen made a motion to approve Mr. Christian's request. Commissioner Cummings seconded the motion and it passed unanimously 9-0.

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

Mr. McWhorter requested and was granted a continuance.

Alabama Real Estate Commission vs. Betty G. Minor and Action Real Estate, LLC, Formal Complaint No. 3332

Upon discussion of the evidence and testimony presented in the matter of Betty G. Minor, Qualifying Broker, Action Real Estate, LLC, Birmingham, Alabama, and their alleged violation of the *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, Commissioner Riggins-Allen made a motion to find Ms. Minor guilty and fine her \$2,500. Commissioner Buford seconded the motion and it passed unanimously 9-0.

NOT APPEARING ITEMS FOR RULING

David B. Martin, Surrender of License, I-14,227

Upon review of the license surrender submitted by David B. Martin, Commissioner Wright made a motion to accept the surrender of Mr. Martin's license. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Jonathan Daniel Acton, Applicant for Determination of License Eligibility, I-14,231

Upon review of the application for determination of license eligibility submitted by Mr. Acton, Commissioner Cawthon made a motion to deny Mr. Acton's request. Commissioner Buford seconded the motion and it passed unanimously 9-0.

Aronov Realty Brokerage, Lake Martin Branch Office, Hardship Request for Home Operation Due to Fire at Branch Office, I-14,231

Upon review of the request for home operation, Commissioner Cummings made a motion to approve Aronov's request allowing qualifying broker Virginia Pettus to operate the company from her home for 120 days. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Confirm Next Meeting Date and Location for the Record: February 19, 2014 – Montgomery

Commissioner Sharp made a motion to approve the next Commission meeting date and location for February 19, 2014 at 1:00 p.m. in Montgomery. Commissioner Wright seconded the motion and it passed unanimously 9-0.

There being no further business, the meeting adjourned at 4:25 p.m.

Done this 23rd day of January, 2014.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary