

MINUTES

A meeting of the Alabama Real Estate Commission was held June 25, 2010, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Sheila Hodges; Vice-Chair Jewel Buford; Commissioners, Bobby Hewes, Jan Morris, Bill Watts 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, Philip Bunch, K.C. Baldwin and Auditors Anthony Brown and Denise Blevins. Tori Adams served as Hearing Officer. Commissioners Steve Cawthon, Clif Miller and Dorothy Riggins-Allen were absent with notice.

Other staff in attendance were Public Relations Specialist Lori Moneyham, Accounting and Personnel Manager Molli Jones, Information Technology Manager Nancy Barfield, Assistant Information Technology Manager Brett Scott and Programmer Analyst Matt Davis.

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

Commissioner Morris made a motion to approve the May minutes as presented. Commissioner Hewes seconded the motion and it passed unanimously 6-0.

Executive Director Philip Lasater reported on the May Financial statement. He gave an analysis of the year to date financials citing average monthly expenditures of \$278,000 and average receipts from sources other than renewals of \$104,000. Renewal fees allotted for this fiscal year were 2.5 million of which 1.4 million has been spent thus far. This shows that we living within our means.

Chairman Hodges welcomed J. Danny Cooper, CEO of AAR (Alabama Association of Realtors) and Randy McKinney who was appointed by AAR President Keith Kelly to chair a task force to work with BP regarding the claims process for real estate licensees as a result of the oil spill crisis in the Gulf. Mr. McKinney reported that after several meetings with BP officials, BP has stated their intention to pay licensees directly for losses based on documentation of performance and income in prior years. Mr. McKinney asked Commissioners to consider some action that will allow payment to occur in this manner rather than all claims being paid through the qualifying broker. After a thorough discussion Commissioner Watts made a motion to waive Section 34-27-36(a)(14) for the sole purpose of payments from BP or their successors to licensees as a result of the oil spill crisis in the Gulf of Mexico. Commissioner Hewes seconded the motion and it passed unanimously 6-0.

Commissioner Watts made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in open meeting. Commissioner Morris seconded the motion and it passed unanimously 6-0.

HEARINGS AND APPEARINGS

Shaft Lamonica Muhammad, Application for Determination of Licensing Eligibility, I-13,386

Upon discussion of Mr. Muhammad's application for determination of licensing eligibility, Commissioner Morris made a motion to approve Mr. Muhammad's application. Commissioner Watts seconded the motion and it passed unanimously 6-0.

Alabama Real Estate Commission vs. Roy Rayford Murphy, David A. Evans, Thomas L. Murphy, and The Property Management Group, Formal Complaint No. 3189

Upon discussion of the evidence and testimony presented in the matter of Roy Rayford Murphy, former qualifying broker, The Property Management Group and current qualifying broker for Venture South LLC d/b/a Homevestors, Birmingham, Alabama; David A. Evans, Salesperson, Tom Murphy Inc. d/b/a TMI Real Estate, Birmingham, Alabama; Thomas L. Murphy, Qualifying Broker, Tom Murphy Inc. d/b/a TMI Real Estate, Birmingham, Alabama and The Property Management Group, Birmingham, Alabama and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Roy Rayford Murphy violated Section 34-27-36(a)(19) by failing to comply with 34-27-34(a)(1) and (2) by failing to supervise the activities of The Property Management Group after it moved to Thomas Murphy's office location; Count 2: Roy Rayford Murphy violated Section 34-27-36(a)(19) and Rule 790-X-3-.03(1) by failing to be one of the persons with authority to deposit and withdraw funds and to write checks on the trust accounts for The Property Management Group and by failing to deposit all funds in the company trust accounts; Count 3: Thomas Murphy violated Section 34-27-36(a)(19) and Rule 790-X-3-.03(3) by failing to be responsible for deposit of all funds belonging to others in the form of rental payments from tenants that came into the possession of David A. Evans after Mr. Evans became licensed under Mr. Murphy; Count 4: David Evans violated Section 34-27-36(a)(19) and Rule 790-X-3-.03(2) by failing to pay over to his qualifying broker, Thomas Murphy, all funds to be held in trust in the form of rental payments from tenants that came into possession of David A. Evans after Mr. Evans became licensed under Mr. Murphy; Count 5: David Evans violated Section 34-27-36(a)(14) as a licensed salesperson accepting a commission or other valuable consideration for performing acts requiring a real estate license in the operation of The Property Management Group from any person except his qualifying broker, Thomas L. Murphy; Count 6: Respondents The Property Management Group, David A. Evans and Respondent Roy Rayford Murphy violated the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. by commingling money belonging to others with his or her own funds via the actions of the unlicensed clerical person who moved funds back and forth between the escrow accounts and the company general account; Count 7: Respondents The Property Management Group, David A. Evans, and Roy Rayford Murphy violated 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 by having a shortage of funds in the security deposit account. Commissioners made the following motions on each count.

On Count 1 Commissioner Morris made a motion to find Mr. Roy Rayford Murphy guilty and fine him \$1,000. Commissioner Hewes seconded the motion and it passed unanimously 6-0. On Count 2 Commissioner Morris made a motion to find Mr. Roy Rayford Murphy guilty and fine him \$1,000. Commissioner Buford seconded the motion and it passed unanimously 6-0. On Count 3 Commissioner Wright made a motion to find Mr. Thomas Murphy guilty and fine him \$1,000. Commissioner Morris seconded the motion and it passed unanimously 6-0. On Counts 4 and 5, Commissioner Morris made a motion to find Mr. David Evans guilty on both counts, fine him \$2500 on each count and revoke his license. Commissioner Buford seconded the motion and it passed 5-1 with Commissioner Hewes voting no. On Counts 6 and 7, Commissioner Morris made a motion to find The Property Management Group, David Evans and Roy Rayford Murphy guilty and fine each respondent \$1,000. Commissioner Hewes seconded the motion and it passed unanimously 6-0.

Alabama Real Estate Commission vs. Cheryl Sanders, Linda A. Shelton, and C.T. Dodge, Formal Complaint No. 3186

Upon discussion of the evidence and testimony presented in the matter of Cheryl Sanders, formerly licensed as an associate broker at JRHBW Realty Inc., d/b/a RealtySouth, I-459 Southwest Branch, McCalla, Alabama; Linda A. Shelton, Qualifying Broker, JRHBW Realty, Inc., d/b/a RealtySouth, I-459 Southwest Branch, McCalla, Alabama and C.T. Dodge, Qualifying Broker, JRHBW Realty, Inc., d/b/a RealtySouth, Birmingham, Alabama, and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(26) by Respondent Sanders engaging in conduct that constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness when she provided the false approval letter to the Battaglia Law Office; Count 2: Section 34-27-36(a)(19) in that Respondent Shelton failed to comply with Section 34-27-34(a)(2) in that she failed in her duty to see that the transaction of Respondent Sanders complied with the provisions of Chapter 27 of Title 34 Code of Alabama 1975, as amended; Count 3: Section 34-27-36(a)(19) in that Respondent Dodge failed to comply with Section 34-27-32(g) by failing in his duty as qualifying broker to see that the transaction of Respondent Sanders complied with the provisions of Chapter 27 of Title 34 Code of Alabama 1975, as amended; the following motions were made.

On Count 1 Commissioner Buford made a motion to find Ms. Sanders guilty and revoke her license. The motion died for lack of a second. Commissioner Hewes made a motion to find Ms. Sanders guilty and fine her \$1,500. Commissioner Buford seconded the motion and it passed unanimously 6-0. On Count 2 Commissioner Morris made a motion to dismiss the count against Ms. Shelton. Commissioner Hewes seconded the motion. After discussion, Commissioner Morris withdrew her motion and Commissioner Hewes withdrew his second. Commissioner Wright made a motion to find Ms. Shelton guilty and reprimand her. Commissioner Hewes seconded the motion and it passed unanimously 6-0. On Count 3 Commissioner Morris made a motion to dismiss the count against Mr. Dodge. Commissioner Buford seconded the motion and it passed unanimously 6-0.

Alabama Real Estate Commission vs. Judy R. Ramey and Caribe Realty, Inc., Formal Complaint No. 3184

Upon discussion of the evidence and testimony presented in the matter of Judy R. Ramey, Qualifying Broker, Caribe Realty, Inc., Orange Beach, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Sections 34-27-36(a)(8)a. and 34-27-36(a)(8)b. by failing within a reasonable time, to deposit and properly account for funds belonging to others in a separate federally insured account or accounts in a financial institution located in Alabama, and by failing to deposit and account for at all times all funds coming into their possession that belong to others by having a shortage of funds in the rental account and in the security deposit account, Commissioner Morris made a motion to find Judy Ramey and Caribe Realty, Inc. guilty and fine them \$1,000. Commissioner Watts seconded the motion and it passed unanimously 6-0.

Alabama Real Estate Commission vs. Wiley W. Reed, Formal Complaint No. 3180

Upon discussion of the evidence and testimony presented in the matter of Wiley W. Reed, Inactive Broker, Tuscaloosa, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing within ten (10) days to notify the Alabama Real Estate Commission of the institution of a civil suit against him and his then real estate company 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 comply with Section 34-27-31(k) in his failure to notify the Commission within ten days of a judgment against him; Count 3: Section 34-27-36(a)(23)b. by having a final money judgment rendered against him in a civil suit, Commissioner Morris made a motion to find Mr. Reed guilty and fine him \$100 on each count. The motion died for lack of a second. Commissioner Buford made a motion to find Mr. Reed guilty and fine him \$1000 on each count. Commissioner Wright seconded the motion and it passed 5-1 with Commissioner Morris voting no.

Alabama Real Estate Commission vs. Southern Homes and Properties Management, LLC and Walter Wrenn Wyatt, Jr., Formal Complaint No. 3187

Upon discussion of the evidence and testimony presented in the matter of Southern Homes and Properties Management, LLC, Enterprise, Alabama and Walter Wrenn Wyatt, Jr., Qualifying Broker, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(8)a. by failing within a reasonable time to properly account for or remit money coming into his possession which belonged to others, or commingling money belonging to others with his own funds; Count 2: 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 by having shortages of funds in the accounts, Commissioner Watts made a motion to find Mr. Wyatt and Southern Homes and Properties Management, LLC guilty on both counts and to fine them \$1000 per count. Commissioner Hewes seconded the motion and it passed unanimously 6-0.

Alabama Real Estate Commission vs. Terry Ponder, Formal Complaint No. 3192

The case against Mr. Ponder was continued at the request of his attorney.

Jason Center, Application for Determination of Licensing Eligibility, I-13,381

Mr. Center was unable to attend the meeting so this matter was carried over.

Jeffrey Lee Brindley, Jr., Request to Renew Lapsed Salesperson License Under Hardship, I-13,394

Upon discussion of the hardship renewal request presented by Mr. Brindley, Commissioner Watts made a motion to grant Mr. Brindley's request subject to completion of a 3 hour course in License Law. Commissioner Morris seconded the motion and it passed unanimously 6-0.

NOT APPEARING ITEMS FOR RULING

Bolley Johnson, Application for Licensure, I-13,398

Upon review and discussion of the reciprocal broker license application submitted by Mr. Johnson, Commissioner Morris made a motion to approve Mr. Johnson's application. Commissioner Hewes seconded the motion and it passed unanimously 6-0.

Elizabeth D. Boyd, Applicant for Licensure After Revocation, I-13,398

Upon discussion of the revocation of Ms. Boyd's license and her request for Commission consideration in granting her re-licensure, Commissioner Hewes made a motion to deny Ms. Boyd's request. Commissioner Morris seconded the motion and it passed unanimously 6-0.

Roger Gene Sweeney, Request for Rehearing After Revocation, Formal Complaint No. 3181

Upon discussion of the request for re-hearing presented by Mr. Sweeney's attorney, Commissioner Watts made a motion to deny Mr. Sweeney's request. Commissioner Buford seconded the motion and it passed unanimously 6-0.

Confirm Next Meeting Date and Location for the Record: July 23, 2010, 9:00 a.m., Montgomery, Alabama

Commissioner Watts made a motion to confirm that the next meeting will be held on July 23, 2010 at 9:00 a.m. at 1201 Carmichael Way, Montgomery, Alabama. Commissioner Morris seconded the motion and it passed unanimously 6-0.

There being no further business, the Commission adjourned at 3:35 p.m.

Done this 25th day of June, 2010.

Sheila Hodges, Chairman

Patricia Anderson, Recording Secretary