

## MINUTES

The Alabama Real Estate Commission met March 17, 2006, in Homewood, Alabama, at the Birmingham Area Association of Realtors.

Those present were Chairman Bill E. Poole; Vice Chair Sheila Hodges; Commissioners Roy Bragg, Jewel Buford, Thomas Hays, Gordon Henderson, Bobby Hewes, Lyman Lovejoy and Chester Mallory; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Education Specialist Ryan Adair; Special Investigators David Erfman and Chuck Kelly; Auditor Anthony Brown and Assistant Attorney General Tori Adams.

Chairman Poole called the meeting to order and declared a quorum present at 9:00 a.m.

Chairman Poole recognized and welcomed BAR EVP Charles Penn, BAR President Robert Scott and thanked them for the use of their facility and other courtesies, DeKalb County broker and Instructor Susan Hawkins and St. Clair County broker Larry Golden. Commissioner Hodges moved to approve the February meeting minutes as presented. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

The financial statement for February was reviewed with no action taken.

Commissioner Hays was excused due to a family medical emergency.

Executive Director Philip Lasater distributed a written report that provided an update on HB550, recently held Instructor Training in Alabama License Law, the AREC Building Committee activation, the upcoming ARELLO mid year meeting in Jacksonville, Florida, introduction of AARB the Alabama Association of Regulatory Boards, its purpose and objectives and AREC's participation. The annual Examiners of Public Accounts new board member training has been scheduled for August 23<sup>rd</sup>.

Assistant Executive Director Pat Anderson elaborated on a report that, out of 26,704 brokers and salespeople, 1, 269 are currently exempt from Continuing Education.

### **Place of Business/Sign and Advertising**

Commissioner Bragg reported from the Task Force that has been evaluating these matters. After relating the process of the work entailed a recommendation was made for amending Rule 790-X-2.-07. *A place of business shall be identified by a sign which sets out the name of the company as licensed with the commission. In places where an exterior sign is permitted a sign shall be posted outside of the office so that it is plainly and readily visible to the public. In places where an exterior sign is not permitted, an interior sign shall be posted. The interior sign shall be in keeping with the building restrictions, and if permitted, shall be posted in the entry area and on the door of the office or suite of offices. Appropriate files and records shall be maintained in the place of business.* Commissioner Henderson moved to approve the proposed amendment and to authorize the process for promulgation. Commissioner Lovejoy seconded the motion and it passed unanimously 8-0. Additionally, Commissioner Bragg moved that the statement of enforcement as set out by the Executive Director wherein he had been

requested to outline the current manner of compliance and enforcement be re-affirmed and published. Commissioner Hodges seconded the motion and it passed 8-0.

Chairman Poole called an Executive Session for the deliberation of disciplinary actions in the following hearings. The Commission meeting did not open again and votes were not announced since written orders would be entered and distributed to the respondents and published more broadly to the general public and licensees.

**Alabama Real Estate Commission vs. Juanita Muirhead, Formal Complaint No. 2896**

Upon discussion of the evidence and testimony presented in the matter of Juanita Muirhead, Qualifying Broker, The Buyer's House, Inc., Bessemer, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(20) by accepting a net listing agreement in a transaction; Count 2: Section 34-27-36(a)93) by making a material misrepresentation to the seller that the buyer was getting a \$55,000 mortgage loan to have money for repairs when the buyer received no money from the closing; Count 3: Section 34-27-36(a)(3) by making a material misrepresentation to the buyer that she would receive \$9,000 from the closing to make repairs; Count 4: Section 34-27-36(a)(19) by preparing an estimate of closing costs that failed to include the sales/broker's commission of \$21,885.87 that was charged at the closing; Count 5: Section 34-27-36(a)(10) by failing to voluntarily furnish a copy of the sales contract to the buyer and seller within reasonable promptness; Count 6: Section 34-27-36(a)(12) by paying the purchaser a rebate in the amount of \$2,300 outside the closing of the transaction; Count 7: Section 34-27-36(a)(8)b. by failing to deposit and account for funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama, Commissioner Hodges moved to find Ms. Muirhead and the Buyer's House guilty on Count 1 and to revoke her license. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

Commissioner Mallory moved to find Ms. Muirhead guilty on Count 2 and to revoke her license. Commissioner Lovejoy seconded the motion and it passed unanimously 8-0.

Commissioner Henderson moved to find Ms. Muirhead guilty on Count 3 and to fine her \$500. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

Commissioner Hodges moved to find Ms. Muirhead guilty on Count 4 and to fine her \$1500. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

Commissioner Hodges moved to find Ms. Muirhead guilty on Count 5 and to fine her \$500. Commissioner Lovejoy seconded the motion and it passed unanimously 8-0.

Commissioner Hodges moved to find Ms. Muirhead guilty on Count 6 and to reprimand her. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Commissioner Hodges moved to find Ms. Muirhead guilty on Count 7 and to revoke her license. Commissioner Buford seconded the motion and it passed unanimously 8-0.

**Angela D. Walker, Applicant for Determination of Licensing Eligibility, I-11,908**

Upon consideration of the evidence and testimony presented by Ms. Angela D. Walker, Commissioner Hewes moved to approve the license eligibility of Ms. Walker. Commissioner Henderson seconded the motion and it failed to pass on a 4-4 vote with Commissioners Bragg, Hodges, Lovejoy and Buford voting no. Following further discussion, Commissioner Mallory moved to approve the license eligibility of Ms. Walker and Commissioner Henderson seconded the motion and it passed 6-2 with Commissioners Bragg and Buford voting no.

**Alabama Real Estate Commission vs. Frederick C. Crochen, Formal Complaint No. 2910**

Upon discussion of the evidence and testimony presented in the matter of Frederick C. Crochen, Qualifying Broker, Crochen and Associates, LLC, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-35(j)(1) and Alabama Real Estate Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates showing the completion of all the required continuing education course hours by the deadline and by the false or inaccurate filing of the renewal, Commissioner Henderson moved to find Mr. Crochen guilty and to fine him \$1000 and to suspend his license until the continuing education required for the 2004 renewal is certified and it is not to count as credit toward the 2006 renewal. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Roderick Gerard Turner, Formal Complaint No. 2906**

Upon discussion of the evidence and testimony presented in the matter of Roderick Gerard Turner, Salesperson, Top Gun Realty Group, Inc., Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(23)a. by having entered a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or a crime involving moral turpitude; Count 2: Section 34-27-36(a)(19) by failing to comply with Section 34-27-31(j) by failing to notify the Commission within ten days of the institution of criminal prosecutions against him; Count 3: Section 34-27-36(a)(19) by failing to comply with Section 34-27-31(k) by failing to notify the Commission within ten days of the criminal verdicts against him, Commissioner Hodges moved to find Mr. Turner guilty and to reprimand him. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

**Denise E. Long, Denied Applicant for Temporary Salesperson's License, I-11,862**

Upon consideration of the evidence and testimony presented by Denise E. Long, Commissioner Henderson moved to approve the temporary salespersons license of Ms. Long. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

**Rhett J. Barry, Denied Application to Renew Lapsed Salesperson's License, I-11,859**

For the second time scheduled, Mr. Barry failed to show for his hearing. After the appointed time for his hearing had passed and the halls had been sounded, the Hearing Officer

determined the service requirements had been satisfied. Commissioner Bragg moved to find Mr. Barry in default and to deny his request. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

NOT APPEARINGS

**Alabama Real Estate Commission vs. Ralph E. Grisham, Formal Complaint No. 2909**

Upon discussion of the evidence and testimony presented in the matter of Ralph E. Grisham, Inactive Salesperson, Fairhope, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-35(j)(1) and Alabama Real Estate Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates showing the completion of all the required continuing education course hours by the deadline and by the false and inaccurate filing of the renewal, Commissioner Hodges moved to accept the affidavit of guilt and the payment of the \$1000 fine for failure to show satisfactory completion of continuing education. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

**Victor R. Scott, Hardship Request to Renew Lapsed License, I-11,907**

Upon consideration of Mr. Scott's request to renew a lapsed license, Commissioner Hodges moved to deny the hardship request for renewal by Mr. Scott. Commissioner Buford seconded the motion and it passed unanimously 8-0.

**Aran Scott Parker, Applicant for Determination of Licensing Eligibility, I-11,902**

Upon review of Mr. Parker's application for determination of licensing eligibility, Commissioner Hodges moved to deny the license eligibility of Mr. Parker. Commissioner Bragg seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Leah Covington, Formal Complaint No. 2900**

Upon discussion of the evidence and testimony presented in the matter of Leah Covington, Temporary Salesperson, Brigham Williams Commercial Properties, Inc., Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presenting to the 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. Covington guilty and to fine her \$250. Commissioner Lovejoy seconded the motion and it passed 7-0 with Commissioner Mallory abstaining.

**Selvya Boyd, Request for Additional Time for License Issuance, I-11,914**

Upon consideration of Ms. Boyd's request for a waiver on the 90 day deadline for submitting the license application, Commissioner Hodges moved to approve an additional 45 days for Ms. Boyd to submit her application for a temporary salespersons license. Commissioner Lovejoy seconded the motion and it passed unanimously 8-0.

**William T. Broglan, Surrender of Broker's License, I-11,636**

Upon consideration of the voluntary surrender of Mr. Broglan's broker and company licenses, Commissioner Henderson moved to accept the affidavit of license surrender from Mr. Broglan. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

There being no further business, the Commission adjourned at 1:10 p.m.

Done this 17<sup>th</sup> day of March, 2006.

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Bill E. Poole, Chairman

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D. Philip Lasater, Recording Secretary