

MINUTES

A meeting of the Alabama Real Estate Commission was held May 20, 2011, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Sheila Hodges; Vice Chairman Jewel Buford; Commissioners Steve Cawthon, Clif Miller, Jan Morris, Dorothy Riggins-Allen, Danny Sharp, 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, Phillip Bunch and K.C. Baldwin. Tori Adams served as Hearing Officer.

Other staff in attendance for part or all of the meeting were Public Relations Manager Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham; Accounting and Personnel Manager Molli Jones; Information Technology Manager Nancy Barfield; Assistant Information Technology Manager Brett Scott; Programmer Analyst Matt Davis; Information Technology Systems Technician Steve Brown; Education Specialist Pam Oates and Education Assistant Nancy Williamson.

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 Watts made a motion to approve the April minutes as presented. Commissioner Sharp seconded the motion and it passed unanimously 9-0.

Executive Director Philip Lasater reviewed the April financial statement. He noted the April income was \$37,000 and the average monthly disbursement is about \$256,000. This point was made to congratulate Commission leadership on moving away from variable income sources to a more reliable source of funding with biennial renewals in order that regulatory programs can continue to be adequately funded during times of economic downturn. Also of interest is that fines are up almost three times over last year. After answering Commissioner's questions, Mr. Lasater concluded his report.

After reviewing the Strategic Plan Commissioners amended in February during their planning session, Commissioner Morris made a motion to adopt the plan as amended. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Mr. Lasater recognized the good work that Reginald Foster has done in support of the Legal and Enforcement Division and made Commissioners aware that he will be leaving to take an information technology position with an out of state company. Commissioners expressed appreciation for Mr. Foster's work with the Commission and wished him well in future endeavors.

At the April meeting Commissioners awarded the web services RFP (Request for Proposal) to the N9ne Agency from Tuscaloosa, Alabama and set for the May meeting

discussion about whether to enter into a contract with them at this time. Mr. Lasater introduced Mr. Robby White and Mr. Chase Bowers from the N9ne Agency. At the request of the chairman, they came and presented a short video of the services the contract will contain. Staff of the Commission involved in the RFP process were present to answer Commissioner questions. After discussion and noting that the Strategic Plan calls for the execution of a communications program, Commissioner Wright made a motion to proceed now with the contract process. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

HEARINGS

Timothy Swearingen, Applicant for Real Estate Temporary Salesperson's License, I-13,632

Upon discussion of the evidence and testimony presented in the matter of Mr. Swearingen's application for temporary salesperson's license and a felony conviction against him, Commissioner Watts made a motion to approve Mr. Swearingen's eligibility for licensure. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Robyn L. Morris, Request for Additional Time to Complete Prelicense Course, I-13,641

Upon discussion of the request by Ms. Morris for additional time to complete the pre-license course for temporary salesperson's license, Commissioner Watts made a motion to extend Ms. Morris' deadline to complete the prelicense course to May 1, 2012. Commissioner Miller seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Coby Lake, Circuit Court Remand for Further Hearing, Formal Complaint No. 3225

Upon discussion of the evidence and testimony presented by Mr. Lake, Commissioner Watts made a motion that the punishment was not disproportionate to the offense committed and to reaffirm the Commission's previous decision as ordered in its November 29, 2010 Order. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Michael Lashan Smith, Application for Determination of Licensing Eligibility, I-13,628

This hearing was continued due to Mr. Smith's absence.

Alabama Real Estate Commission vs. Roger Gene Sweeney and Linda G. Sheffield, Court Order Remand for Further Evidence to be Admitted, Formal Complaint No. 3181

Commissioner Sharp was not on the Commission during the original hearing and therefore recused himself from participating or voting in this matter.

Upon discussion of the additional testimony and evidence presented by Respondents, Commissioner Cawthon made a motion to uphold the Commission's original ruling and that Mr. Sweeney's revocation will remain in effect. Commissioner Watts seconded the motion and it passed unanimously 8-0 with Commissioner Sharp having earlier recused himself.

Regarding Ms. Sheffield, Commissioner Cawthon made a motion to amend the earlier order by removing the revocation and substituting a fine of \$2500. Commissioner Morris seconded the motion. Commissioner Watts made a motion as a friendly amendment to add to the \$2500 fine a 120 suspension which will be permanently stayed provided Ms. Sheffield successfully completes the 60 hour broker prelicense course and course exam. Commissioner Morris seconded the amendment. The vote on the friendly amendment passed 7-1 with Commissioner Buford voting no. The vote on the main motion passed unanimously 8-0 with Commissioner Sharp having earlier recused himself.

NOT APPEARING ITEMS FOR RULING

Patricia Ann Bernard, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3235

Upon review of the evidence and testimony presented in the matter of Patricia Ann Bernard, Qualifying Broker, Hope Realty LLC, Pontiac, Michigan, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presentation 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 Buford made a motion to find Ms. Bernard guilty and fine her \$250. Commissioner Cawthon seconded the motion and it passed 8-1 with Commissioner Morris voting no.

Shana Diaura Hitchcock, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3237

Upon review of the evidence and testimony presented in the matter of Shana Diaura Hitchcock, Salesperson, Chanslor Development LLC d/b/a RE/MAX Prime, Columbus, Georgia, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presentation 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 Buford made a motion to find Ms. Hitchcock guilty and fine her \$250. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Extension of Deadlines for Tornado Victims

Upon discussion of the need for extension of education and licensing deadlines due to the recent tornadoes, Commissioner Watts made a motion to extend these deadlines for 120 days for everyone who had an education or licensing deadline to fall between April 27, 2011 and May 31, 2011. Commissioner Riggins-Allen seconded the motion and it passed unanimously 9-0.

Waiver of Transfer Fee for Companies Whose Offices Were Damaged or Destroyed by Tornadoes

Upon discussion, Commissioner Watts made a motion to waive the \$25 transfer fee for companies and their licensees when the company has to relocate either temporarily or permanently due to the office being damaged or destroyed in the tornadoes of April 27, 2011.

If a company moves to a temporary location and then moves to a permanent location, they will not be charged the transfer fee either time. Commissioner Buford seconded the motion and it passed unanimously 9-0.

Confirm Next Meeting Date and Location for the Record: June 17, 2011, 9:00 a.m. in Montgomery

Commissioner Watts made a motion to approve the next Commission meeting date and location for June 17, 2011 at 9:00 a.m. at the Commission offices in Montgomery, Alabama. Commissioner Sharp seconded the motion and it passed unanimously 9-0.

The Commission will determine whether it conducts its disciplinary hearing disposition discussions and decisions in an open meeting or call an Executive Session.

Commissioner Morris made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in executive session. Commissioner Watts seconded the motion and it passed unanimously 9-0 with the following Commissioners voting in favor of the motion: Chairman Sheila Hodges, Vice Chairman Jewel Buford, Steve Cawthon, Clif Miller, Jan Morris, Dorothy Riggins-Allen, Danny Sharp, Bill Watts and Nancy Wright. Commissioners will not come back into open session to make decisions but rather will enter written orders on decisions made in executive session.

Under other business, Commissioners expressed appreciation to Mr. Lasater and Ms. Anderson for attending the additional meetings required to participate and contribute to the FEMA housing Task Force created to assist tornado victims.

Commissioner Watts reported that AAR (Alabama Association of Realtors) has distributed all but \$300,000 of the \$24,000,000 of BP money. He and Commissioner Morris noted that Realtors across the nation have generously contributed to the Disaster Relief Fund for tornado victims.

There being no further business, the Commission adjourned at 12:15 p.m.

Done this 20th day of May, 2011.

Sheila Hodges, Chairman

Patricia Anderson, Recording Secretary