

## MINUTES

A meeting of the Alabama Real Estate Commission was held November 30, 2016 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Carole Harrison; Commissioners Steve Cawthon, Cindy Denney, Clif Miller, Dorothy Riggins-Allen, Danny Sharp, and Nancy Wright; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Investigators David Erfman, Chuck Kelly, K.C. Baldwin, and Rickey Fennie. The Hearing Officer was Tori Adams. Commissioner Reid Cummings was absent with notice.

Other staff members in attendance for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham; Education Director Ryan Adair and Information Technology Specialist Steven Brown.

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:00 a.m. by Chairman Bill Watts and a quorum was declared.

Executive Director Patricia Anderson reported that the end-of-year financials would not be available until January due to issues with the State of Alabama Accounting and Resource System (STAARS). Commissioners will receive the FY2016 end-of-year report, November financials and December financials at the January Commission meeting.

Ms. Anderson provided an update on the Joint Legislative Task Force on Budget Reform. The task force, which is comprised of seven House members and seven Senate members, was created by Joint Resolution to examine the structure and design of the state budgeting process and make recommendations for long-term budget and tax system reforms. State agencies were asked to provide information to the task force including whether the agency has rollover accounts, the source of agency funds, and expected use of funds, among other information. The Commission has complied and submitted all requested information. Ms. Anderson also reported on the 2017 Commission bill that has been drafted to clearly articulate state policy regarding the Commission's rule making authority as it relates to antitrust laws and consumer protection.

Commission strategic planning consultant JDanny Cooper also addressed the Commissioners regarding the Joint Legislative Task Force on Budget Reform and the 2017 legislation. He reported that the task force was earnestly seeking recommendations and suggestions to shore up the state budget and that some suggestions had already been proposed. Mr. Cooper has obtained a Senate sponsor for the Commission's bill regarding rule making authority. Commissioners will be notified of the House sponsor when that person has been secured.

Ms. Anderson reported that salesperson examination pass rates have improved significantly. Overall pass rates increased from 38.2% in 2015 to 44.1% in 2016. Rates for those who passed the examination the first time they took it increased from 46.3% in 2015 to 56.2%

in 2016. A single month comparison shows that those who passed the first time was 43.2% in October 2015 and rose to 61.5% in October 2016. She also reported that 85.5% of licensees who were eligible to renew have currently renewed. Additionally, Commissioners were reminded that Mr. Cooper's contract will be presented to the Legislative Contract Review Committee in January for renewal as work continues on the Strategic Plan.

Commissioner Cawthon made a motion to conduct disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

Chairman Watts requested an executive session to receive advice from General Counsel Chris Booth. Commissioner Wright made a motion to enter into executive session for 5 minutes to receive legal counsel with the intent to reconvene in an open meeting following the executive session. Commissioner Cawthon seconded the motion and it passed 8-0 with Commissioners voting as follows: Chairman Watts (Yes), Vice Chairman Cawthon (Yes), Commissioner Wright (Yes), Commissioner Harrison (Yes), Commissioner Miller (Yes), Commissioner Riggins-Allen (Yes), Commissioner Sharp (Yes) and Commissioner Denney (Yes). Commissioners entered into executive session at 12:25 p.m. The executive session ended at 12:30 p.m. and the open meeting resumed with Chairman Watts, Vice Chairman Cawthon and Commissioners Wright, Harrison, Miller, Riggins-Allen, Sharp and Denney present.

#### HEARINGS

#### **Michael H. Lait, Application for Determination of Licensing Eligibility, Investigative File I-14,923**

Mr. Lait requested and was granted a continuance.

#### **Rodney Wade Walker, Application for Temporary Salesperson License, Investigative File I-14,926**

Upon discussion of the testimony presented by Mr. Walker regarding his temporary salespersons license application, Commissioner Cawthon made a motion to approve his application. Commissioner Miller seconded the motion and it passed unanimously 8-0.

#### **Angela Townley, Request for Extension to Take and Pass Salesperson Examination, Investigative File I-14,941**

Upon discussion of the testimony presented by Ms. Townley regarding her request for a six-month extension to take and pass the salesperson examination, Commissioner Miller made a motion to grant her request. Commissioner Denney seconded the motion. Commissioner Cawthon made a friendly amendment to the original motion to reduce Ms. Townley's request from six months to 60 days to take and pass the salesperson examination. Commissioner Riggins-Allen seconded the amendment and it passed 7-1 with Commissioner Miller voting against the motion. The vote on the amended motion was 7-1 with Commissioner Harrison voting against it.

**Campbell D. Brown, Hardship Request for Extension to Take and Pass Salesperson Examination, Investigative File I-14,943**

Upon discussion of the testimony presented by Mr. Brown regarding his hardship request for a 60-day extension to take and pass the salesperson examination, Commissioner Riggins-Allen made a motion to grant his request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**Scott Morgan, Application for Determination of Licensing Eligibility, Investigative File I-14,944**

Upon discussion of the testimony presented by Mr. Morgan regarding his determination of licensing eligibility, Commissioner Riggins-Allen made a motion to deny his request. Commissioner Denney seconded the motion and it passed 7-1 with Commissioner Sharp voting against the motion.

**Quincy Lamar Wiggins, Remand of Case for Additional Testimony and Evidence, Formal Complaint No. 3385**

Commissioner Miller recused himself from this case.

On June 23, 2016, the Commission heard Formal Complaint #3385 at its meeting in Montgomery, Alabama. At the conclusion of that hearing and after deliberation, the Commission issued an order in which Quincy Lamar Wiggins was found guilty of violations set out in three counts alleged in the formal complaint. Mr. Wiggins was found guilty on Count 1 of failing to pay trust funds in a real estate transaction to his qualifying broker and was fined \$2,500; guilty on Count 2 for failing to prepare and furnish estimated closing statements at the time purchase agreements for real property were prepared or presented to parties and he was fined \$2,000; and guilty on Count 3 for failing to disclose the true terms of a sale of real estate to all interested parties and his real estate license was revoked. An appeal was filed with the Madison County Circuit Court with a stay of the Commission's order requested by Mr. Wiggins. After the Commission's objection to the stay Judge Hall ordered a remand of this case to the Commission for the purpose of taking additional testimony and evidence including, but not limited to, the testimony of James Weaver.

As the remand of this case was solely for the purpose of hearing additional testimony and evidence regarding Mr. Wiggins' previous hearing, Commissioners took no action. The transcript from this hearing will be forwarded to Judge Hall.

NOT APPEARINGS

**John A. Elkington, Failure to Report Change of Address, Formal Complaint No. 3397**

Upon review of the evidence and testimony presented in the matter of John A. Elkington, Qualifying Broker, Elkington Real Estate Group, LLC, Memphis, Tennessee, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to notify the Commission within thirty (30) days of moving his office to a new location,

Commissioner Sharp made a motion to find Mr. Elkington guilty with no penalty. Commissioner Denney seconded the motion and it passed 7-1 with Commissioner Cawthon voting against the motion.

**John Fletcher Elkington, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3396**

Upon review of the evidence and testimony presented in the matter of John Fletcher Elkington, Salesperson, Elkington Real Estate Group, LLC, Memphis, Tennessee, 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 Mr. Elkington guilty and fine him \$250. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

**John D. Wallace and Gateway Real Estate and Mortgage Brokerage Co., Hardship Request for Waiver of Penalty Fees for Broker and Company License, Investigative File I-14,927**

Upon review of the evidence and testimony presented in the matter of Mr. Wallace's hardship request for waiver of penalty fees for his broker and company license renewals, Commissioner Harrison made a motion to grant his request. Commissioner Miller seconded the motion and it passed unanimously 8-0.

**Next Commission Meeting**

The next Commission meeting is scheduled for January 19, 2017 at 9:00 a.m. in Montgomery.

**Confirm February Meeting Date and Location for the Record: February 14, 2017, 1:00 p.m. in Montgomery**

Commissioner Cawthon made a motion to confirm the February meeting for February 14, 2017 at 1:00 p.m. in Montgomery. Commissioner Wright seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 12:30 p.m.

Done this 1st day of December, 2016.

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Bill Watts, Chairman

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Lori Moneyham, Recording Secretary