

MINUTES

A meeting of the Alabama Real Estate Commission was held October 22, 2010, 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 were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, Information Technology Manager Nancy Barfield, Assistant Information 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 elect Commissioner Sheila Hodges for Chairman of the Commission. Commissioner Watts seconded the motion and it passed unanimously 9-0. Commissioner Morris made a motion to elect Commissioner Jewel Buford for Vice Chairman. Commissioner Wright seconded the motion and it passed unanimously 9-0.

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

Executive Director Philip Lasater reviewed the FY 2010 year end financial report. He noted that the September report is the best picture for the entire fiscal year of how Commission funds flow. He noted that of the Legislative appropriation of \$4,000,000, the Commission spent \$3,100,000 and that we were \$296,000 short in collecting revenue. The Commission did not exceed projections in spending in any category. Prior to the fee increase revenues were inordinately dependent on examination fees, new applications and transfers. Therefore, revenues tracked with the economy and these events. After the fee increase was enacted, income became more stable because it is based on license fees. The ability to project has become more realistic.

Commissioners were then directed to the 2012 budget. After a brief discussion, Commissioner Cawthon made a motion to adopt the 2012 budget as presented. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Commission Chairman Hodges welcomed new Commissioner Danny Sharp from the second Congressional District. Mr. Lasater asked Licensing Director, Anthony Griffin, to introduce the Commission's temporary employees. Mr. Griffin introduced Henry Orman and

Virginia Ingram who were hired for 105 days to assist with license renewal. Mr. Lasater expressed appreciation for all the work they have done.

Assistant Attorney General Chris Booth gave Commissioners a written and verbal report and historical data regarding timeshare project registration renewals, new project registrations and advertising review submissions. He made note that both project renewals and advertising submissions for fiscal year 2010 showed an increase over fiscal year 2009.

Commissioner Morris shared with other Commissioners that Education Specialist Julie Norris' brother passed away Saturday, October 16. Having noted, a consensus conveying sympathy was expressed.

Commissioner Watts made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in executive session. Commissioner Morris seconded the motion and it passed unanimously 8-0 with the following Commissioners voting in favor of the motion: Vice Chairman Jewel Buford, Steve Cawthon, Clif Miller, Jan Morris, Dorothy Riggins-Allen, Danny Sharp, Bill Watts and Nancy Wright. Commissioner Hodges left the meeting at 12:25 and was not present for this vote.

Note: Commissioner Hodges was present during the rulings on the "Not Appearings Agenda" but was not present for the rulings on the "Hearings Agenda".

HEARINGS AND APPEARINGS

Alabama Real Estate Commission vs. Elvis C. Stephens, Formal Complaint No. 3216

Upon discussion of the evidence and testimony presented in the matter of Elvis C. Stephens, D.M. Properties d/b/a Real Living Advanced – Hoover, Birmingham, Alabama, 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 Morris made a motion to find Mr. Stephens guilty and fine him \$250. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Jamia Shelby, Applicant for Original Salesperson's Real Estate License After Temporary Salesperson's License Lapsed, I-13,510

Ms. Shelby failed to appear and gave no notice. Therefore, no hearing was held.

Alabama Real Estate Commission vs. Insaf Anne Bush, Formal Complaint No. 3193

This hearing was continued due to a medical emergency of one of the witnesses.

Alabama Real Estate Commission vs. Ken Faught, Formal Complaint No. 3206

Commissioner Buford recused herself from participating and voting in this hearing. Upon discussion of the evidence and testimony presented in the matter of Ken Faught, Associate Broker, Capital Real Estate, Tuscaloosa, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(21) by misrepresenting or failing to disclose to both Ms. Nix and Ms. Hoffman that no earnest money was collected, even though it was shown to have been collected in the contract, Commissioner Cawthon made a motion to find Mr. Faught guilty. Commissioner Wright seconded the motion and it passed unanimously 7-0. Mr. Lasater then shared the record of previous disciplinary action taken against Mr. Faught with Commissioners. Commissioner Morris made a motion to fine Mr. Faught \$2500 and suspend his license for 90 days, but permanently stay the suspension provided Mr. Faught completes the three hour Risk Management course within 30 days. Commissioner Cawthon seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Felicia Michelle Owens, Formal Complaint No. 3197

Ms. Owens appeared, explained that her attorney discontinued his service the previous day and asked for a continuance. Hearing Officer Adams granted the continuance to the November meeting.

NOT APPEARING ITEMS FOR RULING

Mary H. Bourgeois, Waiver of Hearing, No Guilty Plea, Formal Complaint No. 3212

Upon review of the evidence and testimony presented in the matter of Mary H. Bourgeois, Inactive Salesperson, Summerdale, Alabama, 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 of a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Morris made a motion to dismiss the complaint. Commissioner Buford seconded the motion and it passed unanimously 9-0.

P. Carla Scott, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3222

Upon review of the evidence and testimony presented in the matter of P. Carla Scott, Salesperson, Birmingham, Alabama, 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 Buford made a motion to find Ms. Scott guilty and fine her \$250. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Myles K. Sherrill, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3219

Upon review of the evidence and testimony presented in the matter of Myles K. Sherrill, Salesperson, Retail Specialists, 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 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 Cawthon made a motion to find Mr. Sherrill guilty and fine him \$250. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Dianne Davis, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3214

Upon review of the evidence and testimony presented in the matter of Dianne Davis, Salesperson, JRHBW Realty Inc., d/b/a RealtySouth I-459 Southwest Branch, McCalla, Alabama, 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 Ms. Davis guilty and fine her \$250. Commissioner Buford seconded the motion and it passed unanimously 9-0.

Kimberly Ann Hardwick, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3208

Upon review of the evidence and testimony presented in the matter of Kimberly Ann Hardwick, Inactive Salesperson, Dothan, Alabama, 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 Morris made a motion to find Ms. Hardwick guilty and fine her \$250. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Katshalliam Kimber, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3211

Upon review of the evidence and testimony presented in the matter of Katshalliam Kimber, Inactive Salesperson, Phenix City, Alabama, 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 Ms. Kimber guilty and fine her \$250. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Alex Yadyasar Mims, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3209

Upon review of the evidence and testimony presented in the matter of Alex Yadyasar Mims, Qualifying Broker, Alex Mims d/b/a Southern Living Realty, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by moving the company to a new address and failing to notify the Commission within thirty (30)

days as required by Alabama Real Estate Commission Rule 790-X-3-.01, Commissioner Morris made a motion to find Mr. Mims guilty and fine him \$100. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Mark R. Zajac, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3201

Upon review of the evidence and testimony presented in the matter of Mark R. Zajac, Qualifying Broker, AMC Realty Group, LLC, Chesterfield, Missouri, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by moving the company to a new address and failing to notify the Commission within thirty (30) days as required by Alabama Real Estate Commission Rule 790-X-3-.01, Commissioner Wright made a motion to find Mr. Zajac guilty and fine him \$100. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Confirm Next Meeting Date and Location for the Record: November 19, 2010, 9:00 a.m., Montgomery

Commissioner Watts made a motion to approve the next Commission meeting date and location for November 19, 2010 at 9:00 a.m. in Montgomery, Alabama. Commissioner Riggins-Allen seconded the motion and it passed unanimously 9-0.

Commissioner Watts made a motion to ask the Commission's General Counsel to schedule half of the hearings at 9:30 and the other half at 10:30 in order to avoid down time in the future. Commissioner Cawthon seconded the motion and it passed unanimously 8-0. Commissioner Hodges was not present for this vote.

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

Done this 22nd day of October, 2010.

Sheila Hodges, Chairman

Patricia Anderson, Recording Secretary