

MINUTES

The Alabama Real Estate Commission met September 5, 2008, at 9:00 a.m. at the Gulf Shores City Hall, Gulf Shores, Alabama.

Those present were Chairman Gordon Henderson; Vice-Chairman Sheila Hodges; Commissioner Jewel Buford, Steve Cawthon, Bobby Hewes, Chester Mallory, Jan Morris, Dorothy Riggins and Bill Watts; Executive Director D. Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Education Director Ryan Adair; Investigator Phillip Bunch and Hearing Officer Tori Adams.

The meeting having been duly noticed according to The Open Meetings Act was called to order by Chairman Gordon Henderson.

Chairman Henderson recognized and welcomed Gulf Shores City Council member Carolyn Doughty, Baldwin County Association of Realtors® AE Martha Taylor as well as incoming Commissioners Clif Miller and Nancy Wright.

Commissioner Mallory moved to approve the August 8, 2008 minutes as presented. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Executive Director Philip Lasater presented the July 2008 Financial Report. He reported that both expenditures and receipts are under projection, investments are healthy and cash flow is good. License renewals for this renewal period are ahead of the 2006 figures. Commissioner's attention was called to a synopsis of the number of licensees who have completed part or all of their continuing education.

The Executive Director's report included sharing that auditors and investigators other than Mr. Bunch are away attending the ARELLO Investigator's Training Seminar in Baltimore. Commissioner's attention was then called to the unlicensed activity summary report compiled by Mr. Sowell. Mr. Lasater then referenced the handout provided regarding proposed amendments to Section 34-27-6. After discussion Commissioner Cawthon made a motion to proceed with amending the section that would, among other things, give the Alabama Real Estate Commission licensing authority over real estate schools. Commissioner Morris seconded the motion and it passed unanimously 9-0. Mr. Lasater recognized Public Information Specialist Lori Moneyham who has been working with the Gulf Shores Visitors Bureau on the 2011 ARELLO District Conference. Ms. Moneyham gave an overview of the site visits set up for the afternoon.

The Chairman recognized Vice-Chairman Sheila Hodges. Commissioner Hodges read a resolution recognizing and commending the service of outgoing Commission Chair Gordon Henderson. Commissioner Hodges made a motion to accept the resolution. Commissioner Cawthon seconded the motion and it passed unanimously 9-0. Commissioner Hodges then read a resolution commemorating the tenure and service of outgoing Commissioner Chester Mallory. Commissioner Hodges made a motion to accept the resolution. Commissioner Morris seconded the motion and it passed unanimously 9-0. Commissioner Hodges added a special note of thanks

to Commissioner Mallory for watching out for the ladies during travel to ARELLO meetings. He always stayed in the lobby of the hotel until each one was back safely.

Commissioner Mallory discussed his views on Rule 790-X-3-.03 regarding what brokers are to do with disputed escrow money. He shared what other jurisdictions are doing about this problem such as being permitted by law to contact all parties in writing to work out any problem. Mediation was suggested as another option. He suggested perhaps adding some of these things to Alabama license law. Commissioners engaged in a thorough discussion of this matter. No action was taken.

A public hearing was held on proposed amendments to Rules 790-X-2-.01, 790-X-3-.02, 790-X-3-.07 and 790-X-3-.09. The Chairman called for any public comments on the proposed rules. Commissioners reviewed written comments that had been presented. Assistant Executive Director Patricia Anderson offered explanation of proposed changes to new Rule 790-X-2-.01. The first is to add a copy of a U.S. birth certificate as proof of citizenship under paragraph 2 and the second is to add a copy of high school transcripts as proof of high school graduation under paragraph 5. Commissioner Watts expressed concern over accepting copies of a birth certificate rather than a certified copy. Mr. Lasater related that we have been asked to participate on a task force of the Alabama Association of Regulatory Boards that will be in conversation with the legislature and examiners to focus on statutory criteria for the issuance of a license particularly as it relates to citizenship and legal presence. Commissioner Mallory made a motion to adopt the rules with the two changes as stated above to Rule 790-X-2-.01. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Commissioners discussed possible changes to Section 34-27-84. After thorough discussion, Commissioner Watts made a motion to table adoption of any changes. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

Commissioner Morris made a motion that deliberations be held in open session. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

HEARINGS AND APPEARINGS

John M. Geissberger, Applicant for Vacation Timesharing Sales License, I-12,796

Upon discussion of the evidence and testimony presented by Mr. Geissberger regarding his failure to disclose a felony conviction on an application for Tennessee timesharing license resulting in the revocation thereof, Commissioner Hodges made a motion to approve Mr. Geissberger's application for an Alabama Timeshare sales license. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Dorothy Kay Meador, Hardship Request for Obtaining an Original Salesperson's License, I-12,813

Upon discussion of the testimony presented by Ms. Meador and her request for the Commission's consideration in allowing her to make late application for the original

salesperson's license, Commissioner Mallory made a motion to approve Ms. Meador's request. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

NOT APPEARINGS ITEMS FOR RULING

Steven R. Keene, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3085

Upon review of the evidence and testimony presented in the matter of Steven R. Keene, Qualifying Broker, Fontana, California, 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 Hewes made a motion to find Mr. Keene guilty and fine her \$250.00. Commissioner Morris seconded the motion and it passed 9-0.

Sara Ruble, Waiver of Hearing and Not Guilty Plea, Formal Complaint No. 3086

Upon discussion of the evidence and testimony presented in the matter of Sara Ruble, temporary 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 Hodges made a motion to dismiss the complaint. Commissioner Cawthon seconded the motion and it passed 9-0.

Cathy A. Adams, Hardship Request for Home Operation, I-12,803

Upon review of the request and documentation of hardship submitted by Ms. Adams to operate her real estate company from her home, Commissioner Watts made a motion to approve Ms. Adams' request for 24 months with the condition that she not be allowed to have any other associate brokers or salespersons licensed with her. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

Deborah M. Banks, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3087

Upon review of the evidence and testimony presented in the matter of Deborah M. Banks, Qualifying Broker, Elite Multi-City Realtors, LLC, Columbus, Georgia, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that Respondent failed to notify the Commission in writing within thirty (30) days of having moved her place of business, Commissioner Hodges made a motion to find her guilty and fine her \$250.00. Commissioner Buford seconded the motion and it passed unanimously 9-0.

Benny H. Walker, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3088

Upon review of the evidence and testimony presented in the matter of Benny H. Walker, Qualifying Broker, UPM Inc., d/b/a United Properties, Huntsville, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to

comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that Mr. Walker failed to notify the Commission in writing that he had moved his place of business, Commissioner Hodges made a motion to find him guilty and fine him \$250.00. Commissioner Morris seconded the motion and it passed 9-0.

Michael Robinson, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3090

Upon review of the evidence and testimony presented in the matter of Michael Robinson, Qualifying Broker, Michael Robinson Real Estate, Starkville, Mississippi, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that Mr. Robinson failed to notify the Commission in writing within thirty (30) days of having moved his place of business, Commissioner Hodges made a motion to find him guilty and fine him \$250.00. Commissioner Morris seconded the motion and it passed 9-0.

Jan Harris, Request for Extension of 90-Day Deadline for License Issuance, I-12,823

Upon review and discussion of Ms. Harris' request for the Commission's consideration to extend the deadline for submission of her temporary license application, Commissioner Cawthon made a motion to deny her request. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

Arthur Dinkins, Request for Extension to Complete the 30 Hour Post-License Course, I-12,824

Upon review and discussion of Mr. Dinkins' failure to submit an application for the original salesperson's license before the deadline and his request for Commission approval to submit late application, Commissioner Hewes made a motion to grant Mr. Dinkins a six month extension. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Michael Subirats, Request to Take the Alabama Salesperson's Examination, I-12,825

Upon review and discussion of Mr. Sabirats' request for the Commission's approval for an extension to take the salesperson's exam, Commissioner Watts made a motion to grant Mr. Subirats a 30 day extension. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

Tanjie Siniard, Request for an Extension to Apply for the Original Salesperson's License, I-12,826

Upon review and discussion of Ms. Siniard's failure to submit application for the original salesperson's license by the deadline resulting in a lapsed temporary salesperson's license and her request for the Commission's approval for submitting late application, Commissioner Watts made a motion to grant Ms. Siniard a 30 day extension. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

John Dundee, Request for Waiver of \$150 Penalty Fee, I-12,831

Upon review of Mr. Dundee's request for the Commission's consideration for waiver of the \$150 penalty for late renewal of his broker and company license due to an internal server error, Commissioner Hewes made a motion to deny Mr. Dundee's request. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Marlo Watson, Request to Allow Issuance of Original Salesperson's License, I-12,832

Upon review of Ms. Watson's request for a 90-day extension for completing the post-license course and applying for the original salesperson's license, Commissioner Watts made a motion to approve Ms. Watson's request. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Lazette K. Moody, Request to Take Salesperson's Examination, I-12,833

Upon review of Ms. Moody's request for a 60-day extension to take and pass the salesperson's examination, Commissioner Morris made a motion to approve Ms. Moody's request. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

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

Done this 5th day of September, 2008.

Sheila Hodges, Vice-Chairman

Patricia Anderson, Recording Secretary