

MINUTES

A meeting of the Alabama Real Estate Commission was held April 23, 2010, in the Commission Hearing Room of The Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Sheila Hodges; Commissioners Steve Cawthon, Clif Miller, Jan Morris, Dorothy Riggins-Allen, 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, Philip Bunch and K.C. Baldwin. The Hearing Officer was Tori Adams. Commissioners Jewel Buford and Bobby Hewes were absent with notice.

Other staff members present 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 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 Riggins-Allen moved to approve the March 10, 2010 minutes. Commissioner Morris seconded the motion and it passed unanimously 7-0.

Executive Director Philip Lasater reported on the March financial report. He directed attention to receipts and then the interest line item of \$190,207.03. The figure on the financial report represents interest that was received when state agencies were required to pull in the interest from investments when Wachovia, where all state investments had been placed, changed to Wells Fargo. There were no penalties incurred for the early withdrawal. He then directed attention to expenditures and revenues which show that expenditures are under projection by about \$800,000. Revenues are under projection by \$27,000. We have been taking care of essential needs and also careful with the appearance of spending so that a healthy cash flow has been maintained. Commissioner Watts inquired about the status on unfilled positions. Mr. Lasater explained that the Commission has authorized vacancies but we are not actively recruiting to fill any at this time.

In the Executive Director's report Mr. Lasater called attention to both the Property Management article in the Educator and Update written by Auditor Denise Blevins and to an email sent to instructors to reference the articles. These were done in response to Commissioner's request to develop and disseminate information, particularly to instructors, on handling trust funds in property management. Commissioner Watts reported that he spoke at a recent IREM (Institute of Real Estate Management) meeting and talked about property management funds. Mr. Lasater then called attention to item 7 in the packet, which is the current investigative packet, to determine if that contains the information Commissioners asked for in March. Commissioners confirmed that it meets their needs and expressed

appreciation for the information. It was noted that Mr. Danny Sharp with Coldwell Banker Commercial Alfred Saliba Realty in Dothan has been appointed and confirmed to fill Commissioner Hewes's seat when his term ends on September 30, 2010. Mr. Lasater gave a Legislative overview since the session has concluded and specifically referenced the Apartment Manager's Exemption bill and strategy for the future. The ACIJC bill did not pass as the Legislature ran out of time but it will come up again next year. On another matter Commissioners were made aware that a generator for data backup has been purchased through the bid process in case of power failure. Responding to questions from Commissioners regarding how the Commission can supply an uninterruptable power source for disaster backup, Ms. Barfield confirmed and explained the Commission's and state's disaster plan.

Commissioner Morris gave a report from the ARELLO midyear meeting recently held in Colorado Springs. She serves on the Program Committee, the Commissioner Resource Committee, and the Communications Subcommittee of the Membership Committee. She noted that the Communications Subcommittee will be getting out more communication and providing more benefits for members. Ms. Anderson reported that of particular interest was the Administrator's Forum where there was a lot of discussion about legislatures sweeping funds from both operating and recovery funds in several states. There have been lawsuits filed by the REALTOR® associations in some of these states challenging this action. None have yet been resolved. Of other interest were reports from states who have found operating under umbrella agencies unsatisfactory arrangements. Some have begun action to again become autonomous. Commissioner Morris shared with Commissioners about the economist who spoke at the meeting. He was excellent, lives in Auburn and would be someone to consider for the 2011 District Conference. An obstacle could be his fee.

Commissioner Hodges reported that the ARELLO District task force needs to meet in May to determine how much money is needed and how much we have to work with so that an appropriate number of sponsors can be secured. By July the task force needs to identify topics and speakers so that speakers can be under contract by August. We have a commitment from the Gulf Coast CVB that they will send literature and promotional materials for distribution in Iowa at the 2010 District Conference to be held in July. Commissioner Hodges expressed an interest in case law with perhaps an attorney or someone from the FBI as a speaker. Three or four speakers will likely be needed but that will be determined by the task force. The Chairman would like to find a more interesting way to have state reports. She asked each Commissioner to come up with something for the welcome packets representative of their districts.

Commissioner Morris made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in open meeting. Commissioner Miller seconded the motion and it passed unanimously 7-0.

HEARINGS

Alabama Real Estate Commission vs. Stephanie B. Williams and Wright Craft LLC d/b/a RE/MAX Partners, Formal Complaint No. 3173

Upon discussion of the evidence and testimony presented in the matter of Stephanie B. Williams, Qualifying Broker, Wright Craft LLC d/b/a RE/MAX Partners, Mobile, Alabama and Wright Craft, LLC, d/b/a RE/MAX Partners and Stephanie B. Williams, Real Estate Instructor, Above The Rest School of Real Estate, Mobile, Alabama, and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing within a reasonable time to deposit and account for funds belonging to others in a separate federally insured account or accounts located in Alabama, and by failing to deposit and to properly account for at all times all funds coming into their possession that belong to others by having a shortage of funds in the earnest money trust account; Count 2: Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.03(1) in that at the time of the audit and office inspection she was not a signatory on the earnest money trust account and therefore did not have authorization to deposit and withdraw funds or write checks on the trust account; Count 3: Section 34-27-36(a)(19) via Alabama Real Estate Commission Rule 790-X-1-.17(3) should she be found guilty of violation of the Alabama Real Estate Commission License Law, as amended, as set out in Counts 1 and 2, under the provisions of Rule 790-X-1-.17, Respondent as an instructor who holds a real estate license is subject to the disciplinary provisions of Section 34-27-36(a), Commissioners made the following motions on each count. On Count 1, Commissioner Morris made a motion to find Stephanie B. Williams guilty and reprimand her and find Wright Craft, LLC, d/b/a RE/MAX Partners guilty and fine the company \$1,000. Commissioner Cawthon seconded the motion and it passed unanimously 7-0. On Count 2, Commissioner Morris made a motion to find Stephanie B. Williams guilty and fine her \$500. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0. On Count 3, Commissioner Morris made a motion to find Stephanie B. Williams guilty and suspend her instructor's approval until she completes a course in License Law. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Roger Gene Sweeney and Linda G. Sheffield, Formal Complaint No. 3181

Upon discussion of the evidence and testimony presented in the matter of Roger Gene Sweeney, Salesperson, and Linda G. Sheffield, Qualifying Broker, Rise Real Estate, Inc., Huntsville, Alabama, and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(4) by making false promises of a character likely to influence, persuade, or induce the buyers to enter the contract to purchase the partially constructed home by promising to sell them the adjacent lot for \$10; Count 2: Section 34-27-36(a)(19) by failing to see that all transactions of her licensee, Roger Gene Sweeney, complied with the Alabama Real Estate License Law, Section 34-27-34(a)(2), Commissioners made the following motions on each count. Commissioner Morris made a motion to find Mr. Sweeney guilty and revoke his license. Commissioner Watts seconded the motion and it passed unanimously 7-0.

Commissioner Riggins-Allen made a motion to find Ms. Sheffield guilty and revoke her license. Commissioner Watts seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Sonya J. West, Formal Complaint No. 3179

Upon discussion of the evidence and testimony presented in the matter of Sonya J. West, Qualifying Broker, J.L. Swit Realty of Alabama, LLC, Mobile, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(23)b. by having a final money judgment rendered against Respondent; Count 2: Section 34-27-36(a)(19) by payment being made from the Alabama Real Estate Commission Recovery Fund toward a judgment against Respondent pursuant to Section 34-27-31(e)(6) whereby the Respondent's license may be terminated by the Commission, Commissioner Cawthon made a motion to find Ms. West guilty on both counts and revoke her license. Commissioner Watts seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Wiley W. Reed, Formal Complaint No. 3180

The scheduled hearing on Formal Complaint No. 3180 was continued at Mr. Reed's request due to a family medical emergency.

Calvin Vo, Request for Acceptance of Examination Score Without Requiring Recompletion of Prelicense and Post License Courses, I-13,328

Upon discussion of Mr. Vo's second request for Commission consideration in allowing him to obtain both his temporary and original salesperson's licenses without having to retake the pre-license and post license courses, Commissioner Watts made a motion to approve Mr. Vo's request subject to completion of 15 hours of continuing education and payment of all license fees. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0.

Carmen Baker-Crutcher, Request to Renew Lapsed Salesperson License Under Hardship, I-13,270

Upon discussion of Ms. Baker-Crutcher's hardship request for late license renewal, Commissioner Cawthon made a motion to approve Ms. Baker-Crutcher's request. Commissioner Riggins-Allen seconded the motion and it passed 6-1 with Commissioner Morris voting no.

NOT APPEARING ITEMS FOR RULING

Marsha S. McDuffie, Hardship Request to Renew Lapsed Salesperson License, I-13,358

Upon review of Ms. McDuffie's hardship request for late license renewal, Commissioner Miller made a motion to approve Ms. McDuffie's request. Commissioner Riggins-Allen seconded the motion and it passed 4-3 with Commissioners Cawthon, Morris and Hodges voting no.

Tamara J. Cureton, Request for Extension to File Application for Original Salesperson License, I-13,359

Upon review of Ms. Cureton's request for an extension allowing her to submit application for an original salesperson license, Commissioner Cawthon made a motion to deny the request. Commissioner Morris seconded the motion and it passed unanimously 7-0.

Tommi Lee Alford, Hardship Request for Home Operation, I-13,336

Upon review of Ms. Alford's hardship request for home operation with waiver of the provision of a separate entrance into the office, Commissioner Riggins-Allen made a motion to approve Ms. Alford's request. The motion died for lack of a second. Commissioner Cawthon made a motion to deny Ms. Alford's request. Commissioner Morris seconded the motion and it passed 6-1 with Commissioner Riggins-Allen voting no.

Dianne Coleman, Hardship Request for Fine Payment, Formal Complaint No. 3172

Upon review of Ms. Coleman's request for a rehearing and a payment schedule in order to pay fines, Commissioner Watts made a motion to deny a rehearing and directed staff to work out a payment schedule with Ms. Coleman. Commissioner Morris seconded the motion and it passed unanimously 7-0.

Extend 90 Day Deadline for June Examinees

Commissioner Morris made a motion to extend the 90 day deadline for the filing of a license application to September 30, 2010 for June examinees so they can have the same choice as July, August, and September examinees to either have a license issued prior to October 1, 2010 and then renew it or choose to wait and have the license issued on October 1, 2010. Commissioner Wright seconded the motion and it passed unanimously 7-0.

Calendar Review

Hearing Officer Tori Adams made Commissioners aware that she has a conflict for the July meeting. Commissioners could not find another satisfactory Friday date in July so the consensus was to come to the May meeting prepared to suggest other days of the week and make a decision then regarding the July meeting date.

Confirm Next Meeting Date and Location for the Record: May 21, 2010, 9:00 a.m., Montgomery, Alabama

Commissioner Miller made a motion to approve the next Commission meeting date and location for May 21, 2010, at 9:00 a.m. in Montgomery, Alabama. Commissioner Morris seconded the motion and it passed unanimously 7-0.

There being no further discussion, the Commission adjourned at 1:45 p.m.

Done this 23rd day of April, 2010.

Sheila Hodges, Chairman

Patricia Anderson, Recording Secretary