

## MINUTES

The Alabama Real Estate Commission met January 24, 2008, at the offices of the Montgomery Area Association of Realtors, Montgomery, Alabama.

Those present were Chairman Gordon Henderson; Vice Chairperson Sheila Hodges; Commissioners Jewel Buford, Steve Cawthon, Bobby Hewes, Chester Mallory, Dorothy Riggins and Bill Watts; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Education Director Ryan Adair; Investigators David Erfman, Chuck Kelly and Phillip Bunch. Hearing Officer is Tori Adams. Commissioner Jan Morris was absent with prior notice.

Commissioner Mallory moved to approve the November 2007 meeting Minutes as presented. Commissioner Watts seconded the motion and it passed unanimously 8-0.

## **HEARINGS**

### **Alabama Real Estate Commission vs. Jeffrey Cain, Formal Complaint No. 3043**

Upon discussion of the evidence and testimony presented by Jeffrey Cain, Qualifying Broker, Pleasure Island Aviation, Inc., d/b/a Pleasure Island Properties, Orange Beach, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. by commingling money belonging to others with his personal funds, Commissioner Hodges moved to find Mr. Cain guilty and to fine him \$700. Commissioner Buford seconded the motion and it passed unanimously 8-0.

### **Alabama Real Estate Commission vs. Ernest W. Ritch, Formal Complaint No. 3046**

Upon discussion of the evidence and testimony presented in the matter of Ernest W. Ritch, Qualifying Broker, Ritch Realty, Inc., Huntsville, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing, within a reasonable time to properly account for money coming into his possession that belonged to others and by failing to deposit and account for funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama, Commissioner Watts moved to find Mr. Ritch guilty and to revoke his license. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

### **Alabama Real Estate Commission vs. Alean W. Middleton, Formal Complaint No. 3045**

To be continued.

### **Alabama Real Estate Commission vs. Torrie Derrell Jones, Formal Complaint No. 3050**

Upon discussion of the evidence and testimony presented in the matter of Torrie Derrell Jones, Inactive Temporary Salesperson, Montgomery, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(1) by procuring or attempting to procure a license for himself/herself or another by fraud, misrepresentation, deceit, or by making a material misstatement of fact in an application for a license by his failure to cover felony charges, Commissioner Watts moved to find Mr. Jones guilty and to revoke his license. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

### **William D. Minor, Applicant to Renew Salesperson's Lapsed License Under a Hardship, I-12,564**

Upon consideration of the evidence presented in the testimony by Mr. Minor, Commissioner Watts moved to approve reinstatement of Mr. Minor's salesperson license subject to payment of all fees and penalties. Commissioner Riggins seconded the motion and it passed unanimously 8-0.

**Tamekia Dione Matthews, Applicant for Broker's License, I-12,565**

Upon consideration of the evidence presented by Ms. Tamekia Dione Matthews, ERA Weeks and Browning Realty, Montgomery, Alabama, and her failure to meet the broker application deadline, Commissioner Buford moved to deny the hardship request for waiver of the deadline and to allow an extension for submission of a broker's application. Commissioner Watts seconded the motion and it passed 6-1 with Commissioner Mallory voting no.

**Alabama Real Estate Commission vs. Cindy Jolley Davis, Formal Complaint No. 3053**

Upon discussion of the evidence and testimony presented in the matter of Cindy Jolley Davis, a/k/a Cynthia Jolley Davis, Salesperson, Huntsville, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-31(j) by failing to notify the Commission within 10 days after notice to her of the institution of criminal prosecution against her in the matter of theft of property third charges in 2005 and the arrest in 2006 by the Huntsville Police Department; Count 2: Section 34-27-31(k) by failing to notify the Commission within 10 days after notice to her of the criminal disposition of theft of property third charges from 2005 in 2006 in Huntsville Municipal Court; Count 3: Section 34-27-36(a)(23)a. by entering a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or a crime involving moral turpitude in the misdemeanor charges in Counts 1 and 2, Commissioner Riggins moved to find Ms. Davis guilty on counts 1, 2, and 3 and to suspend her license for 6 months. Commissioner Cawthon seconded the motion and it passed 6-1 with Commissioner Mallory voting no. Commissioner Watts moved to deny the broker eligibility of Ms. Davis. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**Scarlotte Deupree Kilgore, Applicant for Original Salesperson's License, I-12,567**

Upon consideration of the evidence presented by Ms. Scarlotte Deupree Kilgore and her failure to meet the salesperson's original license application deadline, Commissioner Mallory moved to approve a 45 day extension for Ms. Kilgore to submit her original sales license application. Commissioner Riggins seconded the motion and it passed unanimously 8-0.

**NOT APPEARINGS**

**Vanessa McGregor, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3040**

Upon review of the evidence and testimony presented in the matter of Vanessa McGregor, temporary salesperson, Exit Realty at the Cove, Owens Cross Roads, 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 moved to find Ms. McGregor guilty and to fine her \$250. Commissioner Watts seconded the motion and it passed 7-0 with Commissioner Mallory abstaining.

**Timothy A. Dozier, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3049**

Upon review of the evidence and testimony presented in the matter of Timothy A. Dozier, Salesperson, Exit Leon Crawford Realty, Huntsville, 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 moved to find Mr. Dozier guilty and to fine him \$250. Commissioner Watts seconded the motion and it passed 7-0 with Commissioner Mallory abstaining.

**Rita Gaines, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3048**

Upon consideration of the mitigating evidence submitted by Ms. Gaines bank, Commissioner Hodges moved to dismiss Formal Complaint # 3048. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

**Milton M. Smith, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3054**

Upon discussion of the evidence and testimony presented in the matter of Milton M. Smith, Qualifying Broker, Capital Properties, LLC, 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 Hewes moved to find Mr. Smith guilty and to fine him \$250. Commissioner Hodges seconded the motion and it passed 7-0 with Commissioner Mallory abstaining.

**Randy M. Britt, Request for Extension of 90 Day Deadline for Filing of Broker's Application, I-12,578**

Upon review of the broker application submitted by Mr. Britt after the 90-day deadline, Commissioner Hodges moved to deny Mr. Britt's hardship request for a deadline extension. Commissioner Buford seconded the motion and it passed unanimously 8-0.

**Kelly Guevara, Request for Extension of 90 Day Deadline for Filing of Broker's Application, I-12,579**

Upon review of the broker application submitted by Ms. Guevara after the 90-day deadline, Commissioner Hodges moved to deny Ms. Guevara's hardship request for a deadline extension. Commissioner Buford seconded the motion and it passed unanimously 8-0.

**Jerry Hernandez, Request for Extension of 90 Day Deadline for Filing of Broker's Application, I-12,580**

Upon review of Mr. Hernandez's request for broker application, Commissioner Hodges moved to deny Mr. Hernandez's hardship request for a deadline extension. Commissioner Buford seconded the motion and it passed unanimously 8-0.

**Khris Miller, Requesting Issuance of Original Salesperson's License, I-12,581**

Upon discussion of Mr. Miller's failure to complete the post license course and apply for the original salesperson's license by the one year deadline, Commissioner Hewes moved to deny Mr. Miller's request for an extension to have his original license issued. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

**Jimmy Haywood, Requesting Issuance of Original Salesperson's License, I-12,582**

Upon review of Mr. Haywood's request for original salesperson's license issuance after failing to meet the one-year deadline for application, Commissioner Hodges moved to deny Mr. Haywood's request to have his original license issued. Commissioner Buford seconded the motion and it passed unanimously 8-0.

**Donald D. McDermott, Jr., Surrender of License, I-12,476**

Upon review of the affidavit or license surrender submitted by Mr. McDermott, Commissioner Watts moved to accept Mr. McDermott's affidavit of surrender for his broker license. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

**Scott Dan Micklewright, Surrender of License, Formal Complaint No. 2986**

Upon review of the affidavit of license surrender submitted by Mr. Micklewright, Commissioner Watts moved to accept the affidavit of surrender for his temporary sales license. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

**William M. Petty, Requesting Approval to Begin Pre-License Course, I-12,552**

Upon review of Mr. Petty's eligibility for licensure, Commissioner Hodges moved to deny Mr. Petty's license eligibility. Commissioner Watts seconded the motion and it passed unanimously 8-0.

**Stephen V. Graham, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3051**

Upon review of the evidence and testimony presented in the matter of Stephen V. Graham, Qualifying Broker, Graham and Company, LLC, Birmingham, 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 by failing to notify the Commission within 30 days of moving his office location, Commissioner Hodges moved to find Mr. Graham guilty and to fine him \$500. Commissioner Buford seconded the motion and it passed 7-0 with Commissioner Watts abstaining.

**James H. Belcher, Requesting Approval as a Continuing Education Instructor, Formal Complaint No. 2682**

Upon review of Mr. Belcher's request for continuing education instructor approval, Commissioner Hewes moved to approve Mr. Belcher as a CE Instructor. Commissioner Mallory seconded the motion and it failed 3-4 with Commissioners Hodges, Buford, Riggins and Henderson voting no.

**Revision of Fee and Mileage Paid to Subpoenaed Witnesses in Commission Hearings**

Upon discussion of the revision of fee and mileage paid to subpoenaed witnesses for Commission hearings, Commissioner Mallory moved to approve increasing the witness fee to \$20 per day and mileage allowance to be the amount established by the State of Alabama Finance Department. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

**Randy L. Horn, Requesting an Extension for Obtaining the Original Salesperson's License, I-12,588**

Upon review of the request by Mr. Horn that he be allowed to obtain an original salesperson's license after having failed to submit the license application by the deadline, Commissioner Cawthon moved to deny Mr. Horn's request for an extension to have his original sales license issued. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

**Rita Kay Pennington, Requesting an Extension to 90-day Deadline for License Issuance, I-12,589**

Upon review of Ms. Pennington's request for a deadline extension for submitting a temporary salesperson's application, Commissioner Buford moved to deny Ms. Pennington's request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**April Alison Davis, Requesting an Extension to 90-day Deadline for License Issuance, I-12,590**

Upon review of Mr. Davis' request for a deadline extension for submitting a temporary salesperson's application, Commissioner Buford moved to deny Ms. Davis' request for an extension. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**Jan Harris, Requesting an Extension for Taking the Alabama Salesperson's Examination, I-12,591**

Upon review of Ms. Harris' request for a deadline extension for taking the pre-license exam, Commissioner Cawthon moved to approve Ms. Harris' request for an extension to take the salesperson examination. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

**Joseph R. Brett, Requesting an Extension to Complete the 30 Hour Post-License Course and Maintain an Inactive License, I-12,592**

Upon review of Mr. Brett's request to take the post license course and apply for an original salesperson's license, Commissioner Hodges moved to deny Mr. Brett's request to

complete the original salesperson application process after his license lapsed.  
Commissioner Mallory seconded the motion and it passed unanimously 8-0.

There being no further business the meeting adjourned at 3:25 p.m.

Done this 24<sup>th</sup> day of January 2008.

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Gordon Henderson, Chairman

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D. Philip Lasater, Recording Secretary