

MINUTES

A meeting of the Alabama Real Estate Commission was held May 25, 2017, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

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

Other staff members in attendance for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham; Accounting and Personnel Director Molli Jones; IT Systems Technician Candice Franklin; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; and Education Specialist Julie Norris.

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

Chairman Watts recognized guests who were present at the meeting: Peggy Goins, legal assistant to hearing officer Jim Hampton; Jeremy Walker, CEO, Alabama Association of REALTORS®; Emily Marsh, Advocacy and Policy Manager, Alabama Association of REALTORS®; Franklin Johnson, Legal Affairs Manager, Alabama Association of REALTORS®; Jason Reid, Regulatory Affairs Director, Home Builders Association of Alabama; Chip Carden, Executive Director, Home Builders Licensure Board; Darlene Burton, Paralegal, Home Builders Licensure Board; Jamie Durham, General Counsel, Home Builders Licensure Board; and Seth Gowan, Assistant General Counsel, Home Builders Licensure Board.

Commissioner Wright made a motion to approve the minutes from the April 20, 2017 meeting. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Commissioners re-approved minutes from the December 4, 2014 and the August 20, 2015 meetings. The minutes were previously approved; however, the votes were not recorded in the minutes. Commissioner Cawthon made a motion to approve the minutes from the December 4, 2014 meeting. Commissioner Miller seconded the motion and it passed 7-0. Commissioner Poe did not vote, as he was not a Commissioner at the time of the December 4 meeting. Commissioner Wright made a motion to approve the minutes from the August 20, 2015 meeting. Commissioner Denney seconded the motion and it passed 6-0. Commissioner Watts did not vote, as he was absent from the August 20 meeting. Commissioner Poe did not vote, as he was not a Commissioner at the time of the August 20 meeting.

Executive Director Patricia Anderson presented the April 20, 2017 financial report. Year-to-date expenditures are under projections and revenues are over projections. Compared to April 2016, both revenues and expenditures have increased. There was a \$4,500 payout from the Recovery Fund.

Ms. Anderson announced that investigator Chuck Kelly was retiring after 28 years with the Alabama Real Estate Commission. Chairman Watts presented a resolution to Mr. Kelly from the Commission and a Certificate of Recognition from Gov. Kay Ivey.

A public hearing was held on proposed changes to Rule 790-X-1.-.03. Jeremy Walker, CEO of the Alabama Association of REALTORS®; Jamie Durham, General Counsel of the Alabama Home Builders Licensure Board; and Jason Reid, Regulatory Affairs Director for the Home Builders Association of Alabama were present to offer comments on the proposed Rule change. Chairman Watts asked that their comments also be presented in writing. Alabama Real Estate Commission General Counsel Chris Booth also offered additional comments.

Ms. Anderson provided a legislative update. The Commission's bill (SB100/HB281), which was a rule making/non-anti-competitive bill that resulted from the North Carolina Dental Board case, passed the legislature. Ms. Anderson praised Rep. Steve McMillan for sponsoring the House bill and Sen. Jabo Waggoner for sponsoring the Senate bill. The Commission will send a letter to both to express our appreciation for sponsoring and assisting with passage of the bill.

Ms. Anderson requested that Commissioners consider engaging in legislative planning sessions on August 23, 2017 and again on September 27, 2017 if needed. By consensus, Commissioners asked Ms. Anderson to invite the Alabama Association of REALTORS® (AAR) Professional Presidential Advisory Group and the AAR Officers to attend for the purpose of discussion and information sharing at the August 23 session. Newly-confirmed Commissioner Emmette Barran III will also be invited to attend the legislative planning sessions. The strategic planning session will not be held until early 2018.

The September 28, 2017 Commission meeting will possibly be moved to Birmingham, Alabama and held at the offices of the Birmingham Area Association of REALTORS®. The proposed 2018 calendar containing tentative Commission meeting dates will be provided to Commissioners at the June 22, 2017 Commission meeting.

Commissioner Cawthon made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Wright seconded the motion and it passed unanimously 8-0.

HEARINGS

Vanessa Reaetta Brown, Hardship Request for Extension to Complete 30-Hour Post License Course, Investigative File I-15,029

Upon discussion of the evidence and testimony presented by Ms. Brown regarding her hardship request for an extension until December 2017 to complete the 30-hour post license course, Commissioner Denny made a motion to approve her request with a 90-day extension to complete the post license course. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Clarence Brown, Application for Salesperson's Temporary License, Investigative File I-15,024

Upon discussion of the evidence and testimony presented by Mr. Brown regarding his application for a temporary salesperson's license, Commissioner Sharp made a motion to approve his application. Commissioner Miller seconded the motion and it passed 7-1 with Commissioner Poe voting against the motion.

James Campbell Watts, Denied Application for Reciprocal Broker's License, Investigative File I-15,045

Chairman Watts recused himself and Vice Chairman Cawthon presided over the hearing.

Upon discussion of the evidence and testimony presented by Mr. Watts regarding his denied application for a reciprocal broker's license, Commissioner Harrison made a motion to deny his application. Commissioner Wright seconded the motion and it passed 7-0.

Alabama Real Estate Commission vs. Howard Patterson (Trey) Garner III, Formal Complaint No. 3423

Chairman Watts resumed presiding over the meeting.

Howard Patterson (Trey) Garner III, Salesperson, Wallace and Moody Realty, Inc., Montgomery, Alabama, was charged on Count 1 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(14) by accepting a commission or other valuable consideration for performing an act for which a license was required from any person other than his qualifying broker; charged on Count 2 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(26) by exhibiting conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness; and charged on Count 3 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(21) by failing to disclose the true terms of a transaction to the seller.

Upon discussion of the testimony and evidence presented by Mr. Garner, Commissioner Wright made a motion to find him guilty on Count 1. Commissioner Sharp seconded the motion and it passed unanimously 8-0. Commissioner Sharp made a motion to find him guilty on Count 2. Commissioner Wright seconded the motion and it passed unanimously 8-0. Commissioner Sharp made a motion to find him guilty on Count 3. Commissioner Wright seconded the motion and it passed unanimously 8-0. Commissioner Cawthon made a motion to revoke Mr. Garner's license on all three counts. Commissioner Denney seconded the motion and it passed unanimously 8-0.

NOT APPEARINGS

Stephanie Marie Benzaia, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3420

Ms. Benzaia was charged with violating 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 Miller made a motion to find her guilty and fine her \$250. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Kelli S. Gilmer, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3421

Ms. Gilmer was charged with violating 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 her guilty and fine her \$250. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Marcus Dwayne Aaron, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3422

Mr. Aaron was charged with violating 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 him guilty and fine him \$250. Commissioner Denney seconded the motion and it passed unanimously 8-0.

Anthony Jerome Atkins, Surrender of License in Lieu of Formal Complaint, Investigative File I-14,971

Upon review of the affidavit of license surrender submitted by Mr. Atkins, Commissioner Wright made a motion to accept the surrender of Mr. Atkins' salesperson's license. Commissioner Denney seconded the motion and it passed unanimously 8-0.

Request for Time Extension - Requested Ruling on Time Extension for Salesperson and Broker Exam Candidates

Commission Education Director Ryan Adair provided the background on this request. All individuals who completed the prelicense course between October 1, 2016 and March 15, 2017 received an incorrect email notice from AMP testing service identifying a deadline of 12 months to pass the exam instead of the six months required by amended Commission Rule 790-X-1-.06(6)(7). AMP identified the error that resulted in incorrect information being sent to approximately 320 exam candidates. Mr. Adair requested that the Commission approve the 12 months for these candidates as stated in the email they received and require AMP to notify exam candidates who were affected by the error of their deadline date.

Upon discussion, Commissioner Wright made a motion to allow an extension of the twelve months to those who were affected by the error to pass the exam. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Review of Proposed Rule Amendments

Upon discussion of the proposed amendments to Rules 790-X-1-.06, 790-X-1-.15, 790-X-1-.18 and 790-X-1-.21, Commissioner Wright made a motion that the Commission approve the staff to move forward with these proposed rule amendments and continue with the administrative rule-making process. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

Confirm July Meeting Date and Location for the Record: July 27, 2017, 9:00 a.m. in Montgomery

Commissioner Harrison made a motion to confirm the date of the July meeting for July 27, 2017 at 9:00 a.m. in Montgomery. Commissioner Poe seconded the motion and it passed unanimously 8-0.

Next Commission Meeting: June 22, 2017, 9:00 a.m. in Montgomery

There being no further business, the meeting adjourned at 12:50 p.m.

Done this 25th day of May, 2017.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary