

MINUTES

A meeting of the Alabama Real Estate Commission was held at 9:00 a.m. on May 30, 2008, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

The meeting having been duly noticed in accordance with the Open Meetings Act was called to order at 9:00 a.m. by Chairman Henderson.

Those present were Chairman Gordon Henderson; Vice Chair Sheila Hodges; Commissioners Jewel Buford, Steve Cawthon, Bobby Hewes, Chester Mallory, Jan Morris, 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, Phillip Bunch and K.C. Baldwin; Hearing Officer was Tori Adams. Chairman Henderson welcomed guests who included Nancy Wright incoming Commissioner from the 4th Congressional District.

Commissioner Mallory moved to approve the May 2, 2008 minutes. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

On the occasion of Annie Hall's retirement, Chairman Henderson recognized Commissioner Hodges to read the resolution from Commissioners commemorating her tenure and career with the Alabama Real Estate Commission. In her acknowledgement of the commendation and congratulations, Ms. Hall expressed appreciation to Commissioners and staff for the privilege of being their coworker and friend as well as appreciation of this recognition. She expressed how much she had enjoyed working for the Real Estate Commission for the past nineteen years.

Mr. Lasater informed Commissioners that the monthly financial statements will be posted on their Web site as they are completed each month and that a summary expense revenue report with fund balances will be provided at the meeting. He stated that, thru April, expenditures are under projections, income is good except that money from temporary license issuance and interest is down.

Mr. Lasater having distributed a written report highlighted and reviewed the development of the Commissioner website and electronic packet format, a report on the use of laptops in a meeting within the context of the Administrative Procedures Act, and other potential electronic access to data during the course of a meeting. It was suggested and solicited that further input and revision of stated goals and objectives be established in order for staff to accomplish Commissioner interest. In the legislative report he expressed having learned the Speaker of the House limited action on bills to only those included in the Governors call even though the Senate introduced the bills of AREC interest the House had passed the previous two sessions. Of particular note was enabling legislation that would provide for more complete and reliable criminal background checks. Even so given previous and consistently expressed Commission interest it may be advisable for the Commission study group to review what would be required to require finger prints of applicants and how best to implement the requirement for compliance. There was no action taken.

Commissioners reviewed the scheduled Open Forum at AAR's Summer Splash in Sandestin on Tuesday, June 3.

A Public Hearing was held on rule amendments. Earl Martin, owner and instructor of Martin & Fellows, Inc., offered comments of support and comments for consideration on several proposed rule amendments. Glenn Henry, owner and instructor for Professional Services Real Estate School, expressed support for all proposed rule amendments. Comments will be taken into consideration and factored before adoption at the next Commission meeting.

Commissioner Morris made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in an open meeting. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

HEARINGS AND APPEARINGS

Alabama Real Estate Commission vs. Clifton Wesley York, Alan H. Goode, Chase Adcox and Richard L. Ellis, Jr., Formal Complaint No. 3069

Upon discussion of the evidence and testimony presented in the matter of Clifton Wesley York, Salesperson, Consultants Realty, LLC d/b/a ReMax Consultants, Tuscaloosa, Alabama; Alan H. Goode, Qualifying Broker, Venture Real Estate, Tuscaloosa, Alabama; Chase Adcox, Salesperson, Advantage Realty Group, Inc., Tuscaloosa, Alabama and Richard L. Ellis, Jr., Qualifying Broker, Advantage Realty Group, Inc., and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to comply with Section 34-27-84(a)(6) in that Respondent York acted on behalf of himself without the required disclosure; Count 2: Section 34-27-36(a)(19) by failing to comply with Section 34-27-84(a)(6) in that Respondent Adcox acted on behalf of himself without the required disclosure; Count 3: Section 34-27-36(a)(19) by failing to comply with Section 34-27-34(a)(2) in that Respondent Goode failed to see that all transactions of every licensee engaged by him complied with the Alabama Real Estate License Law in that he failed to see that Complainants received the written disclosure of the ownership interest of Respondent York; Count 4: Section 34-27-36(a)(19) in that Respondent Ellis failed to comply with Section 34-27-34(a)(2) by failing to see that all transactions of every licensee engaged by him complied with the Alabama Real Estate License Law in that he specifically failed to see that the Complainants received the written disclosure of the ownership interest of Respondent Adcox; Commissioner Hodges made a motion to find Mr. York guilty on Count 1 and fine him \$2,500. The motion was seconded by Commissioner Mallory and passed 8-1 with Commissioner Buford voting no. Commissioner Hodges made a motion to find Mr. Goode guilty on Count 3 and fine him \$1,000. Commissioner Watts seconded the motion and it passed unanimously 9-0. Hearing Officer, Tori Adams, had earlier dismissed Counts 2 and 4 against Mr. Adcox and Mr. Ellis respectively.

Alabama Real Estate Commission vs. Realty North, Inc., and Billy Ray Landers, Formal Complaint No. 3070

In the matter of Billy Ray Landers, Qualifying Broker, Realty North, Inc., Decatur, 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 deposit and account for funds belonging to others in separate federally insured account or accounts located in Alabama and by failing to properly account for at all times all funds coming into their possession that belong to others, Commissioner Hodges made a motion to accept Mr. Landers' affidavit of surrender for his broker license which renders it revoked. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Ray N. Jones, Requesting Hardship Renewal of Lapsed Broker License, I-12,717

Upon discussion and consideration of Mr. Jones' hardship request to renew his lapsed broker license, Commissioner Hodges made a motion to deny the request. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

NOT APPEARING ITEMS FOR DISCUSSION

Gary L. Thompson, Surrender of Real Estate License, I-12,584

Upon discussion of the voluntary surrender of Mr. Thompson's broker license resulting in revocation, Commissioner Watts made a motion to accept Mr. Thompson's license surrender. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Kum (Kim) Robinson, Requesting an Extension to Complete Salespersons Preliminary Course, I-12,732

Upon discussion of Ms. Robinson's request for additional time for completing the salespersons preliminary course, Commissioner Hodges made a motion to approve the request. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

Dan Burns, II, Requesting and Extension for Filing Original Salespersons License Application, I-12,734

Upon discussion of Mr. Burns' request for additional time for filing the original salespersons license application, Commissioner Hodges made a motion to approve his request. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Extension of 90-day Filing Deadline for June Broker Examinees

Commissioner Hewes moved to permit June broker examinees the same issuance option as July, August, and September examinee applicants which is contained in the memorandum prepared for AMP to distribute to exam candidates. Commissioner Riggins seconded the motion and it passed unanimously 9-0.

Shannon Patterson Keith, Request for Hearing in Presence of Hearing Officer, but in Absence of Commissioners, I-12,350 and I-12,692

Upon review of Ms. Keith's request, Commissioner Watts made a motion to send a hearing officer to Tutwiler Prison to hold a hearing and then make recommendations back to Commissioners for decision in the case. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

Anthony McDaniels, Applicant for Determination of License Eligibility, I-12,439

Upon review of Mr. McDaniels' eligibility for licensure, Commissioners Hodges made a motion to deny eligibility for a license. Commissioner Buford seconded the motion and it passed unanimously 9-0.

Alison Tringale, Request for Extension to Complete the 30 Hour Post License Course, I-12,736

Upon review of Ms. Tringale's request for additional time needed for completing the 30 hour post license course, Commissioner Watts made a motion to grant her a 30 day extension. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

Documentation of Citizenship, Legal Presence and other Licensing Requirements

Upon review of staff research of the matter of documenting citizenship and legal presence, Commissioner Watts made a motion to move forward with the rule making process as presented. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

Additional Business

Executive Director Philip Lasater reported that the Senate had just confirmed the following Commission appointments: Mr. Bill Watts from the 6th Congressional District, Ms. Nancy Wright from the 4th Congressional District and Mr. Cliff Miller as a member at large.

After discussion, Commissioner Hodges made a motion to hold the September 5, 2008 Commission meeting in the Gulf Shores/Orange Beach area. Commissioner Buford seconded the motion and it passed unanimously 9-0.

The next regular meeting of the Commission is scheduled for June 27 in Montgomery.

There being no further business, the meeting adjourned at 12:45 p.m.

Done this 30th day of May, 2008.

Gordon Henderson, Chairman

Patricia Anderson, Recording Secretary