

MINUTES

A meeting of the Alabama Real Estate Commission was held October 22, 2015 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Nancy Wright; Commissioners Steve Cawthon, Reid Cummings, Cindy Denney, Carole Harrison, Clif Miller, Dorothy Riggins-Allen and Danny Sharp; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; and Investigators David Erfman, Chuck Kelly, Phil Bunch and K. C. Baldwin. The Hearing Officer was Tori Adams. Commissioner Reid Cummings left at 9:21 a.m. due to an emergency and did not return to the meeting.

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 Mollie Jones; Information Technology Manager Brett Scott; Information Technology Systems Specialist Codey Cherry; Information Technology Programmer Laurie Wright and Licensing Assistant Edward Arrington.

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:13 a.m. by Chairman Bill Watts and a quorum was declared.

In accordance with Section 34-27-7(f) of the License Law, Chairman Watts asked for a motion to elect a chairman and vice chairman. Commissioner Cawthon made a motion that Commissioner Bill Watts continue as chairman. Commissioner Sharp seconded the motion and it passed unanimously 9-0. Commissioner Miller made a motion nominating Commissioner Carole Harrison for vice chairman. Commissioner Riggins-Allen seconded the motion and it passed unanimously 9-0. Commissioner Watts expressed appreciation to Commissioner Nancy Wright for serving as vice chairman for the past two years.

Commissioner Wright made a motion to approve the minutes from the September 24, 2015 meeting. Commissioner Sharp seconded the motion and it passed unanimously 9-0.

Executive Director Patricia Anderson introduced new Information Technology (IT) Division team member Laurie Wright. Ms. Wright is in the process of completing her degree at Auburn Montgomery. She also recognized Eddie Arrington upon his transfer to the Licensing Division as the new Licensing Assistant. Ms. Anderson congratulated IT team member Codey Cherry on being the latest Commission team member to graduate from the Certified Public Manager (CPM) program.

Ms. Anderson presented the September 30, 2015 financial report. This report represents the end of September, but is not the end-of-fiscal year report due to the fact that previously encumbered money will be used to pay invoices through November 2015. The Commission finished the fiscal year with expenditures under projection, including Recovery Fund payouts. Revenue was over projection due to an increase in the number of people who are taking the licensing examination, an increase in the number of transfers and an increase in the number of temporary and original licenses being issued. There were no Recovery Fund payouts in September. The Statement of Operations showed income in

the Salvage/Abandoned Property line item due to revenue received from the sale of two Chevrolet Malibus that were returned to state surplus.

Ms. Anderson also presented the proposed fiscal year 2017 budget. For the first time all state agencies were required to present an IT budget separately from the main budget; however, the IT budget figures are included in the overall FY2017 budget. The FY2017 budget is approximately \$180,000 less than the FY2016 budget largely due to the Commission choosing the newly-available option to lease rather than purchase new vehicles and a reduction in the out-of-state travel budget. The Professional Services line item was increased due to costs related to the implementation of the State of Alabama Accounting and Resource System (STAARS); the pending purchase of new inventory tracking software and a new licensing system; and anticipated expenses should a new oversight office for board and commissions be created. Commissioner Wright made a motion to approve the FY2017 budget as presented. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Ms. Anderson reported on the renewal numbers following the September 30, 2015 final renewal deadline. There were a total of 3,458 lapsed licenses at the end of the final renewal period: 2,066 salespersons, 820 brokers and 572 companies.

Commissioners were also informed that their in-state travel expenses will now be included in their regular prescribed monthly compensation check and will be direct deposited into their accounts. Future out-of-state travel expenses will also be direct deposited.

Commission General Counsel Chris Booth gave an update on appeals. There are currently four cases under appeal. Two of these are under civil appeals.

The FTC has released the white paper *FTC Guidance on Active Supervision of State Regulatory Boards Controlled by Market Participants*. The information in the white paper will be considered in the decision to pursue the creation of a state oversight office for boards and commissions. This issue will likely be addressed in the 2016 legislative session. Additional information will be shared with Commissioners as it becomes available.

Commissioner Riggins-Allen made a motion to conduct disciplinary hearing disposition discussions and decisions in an open meeting. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

HEARINGS

Laken Moore, Hardship Request Additional Time to Have License Issued After Deadline, Investigative File I-14,658

Ms. Moore waived the required 15-day notification of hearing. Upon discussion of the testimony presented by Ms. Moore regarding her hardship request to submit her temporary salesperson's application after the 90-day deadline, Commissioner Riggins-Allen made a motion to grant her request. Commissioner Denney seconded the motion and it passed unanimously 8-0.

Melanie Alise Brown-McGriff, Application for Determination of Licensing Eligibility, Investigative File I-14,651

Upon discussion of the testimony presented by Ms. Brown-McGriff regarding her application for determination of licensing eligibility, Commissioner Cawthon made a motion to approve her application. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. James Franklin (Jimmy) Agnew, Formal Complaint No. 3375

James Franklin (Jimmy) Agnew, Salesperson, Sparkman Developers, Inc., dba Russ Russell Commercial Real Estate, Huntsville, Alabama, was charged on Count 1 with violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(23)a. for having entered 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; on Count 2 with violating *Code of Alabama* 1975, as amended, Section 34-27-31(k) for failing to notify the Commission within ten days of the notice of a criminal verdict being rendered against him; on Count 3 with violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(1) for procuring a license for himself by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a license in his answer of "No" to the questions on his application regarding arrests, indictment, conviction in a criminal offense, and placed on probation when in fact all of those should have been "Yes"; and on Count 4 with violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(1) for procuring a license for himself by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a license in his answer of "No" to the questions on his application regarding arrests and indictment, because at the time of his application he had been indicted, and arrested in a criminal case and those questions under #9 on his application should have been "Yes."

Upon discussion of the evidence and testimony presented in the matter, Commissioner Cawthon made a motion to find him guilty on Count 1, Commissioner Wright seconded the motion and it passed unanimously 8-0; Commissioner Miller made a motion to find him guilty on Count 2. Commissioner Wright seconded the motion and it passed unanimously 8-0. Commissioner Cawthon made a motion to find him not guilty on Count 3. Commissioner Miller seconded the motion and it passed 7-1. Commissioner Riggins-Allen voted against the motion. Commissioner Cawthon made a motion to find him guilty on Count 4. Commissioner Wright seconded the motion and it passed unanimously 8-0. Commissioner Cawthon made a motion to revoke his license on Counts 1, 2 and 4. Commissioner Wright seconded the motion and it passed 7-1. Commissioner Sharp voted against the motion.

Valerie Dixon, Hardship Request for Home Operation, Investigative File I-14,524

Upon discussion of the evidence and testimony presented by Ms. Dixon regarding her hardship request for home operation, Commissioner Cawthon made a motion to approve her request. Commissioner Denney seconded the motion and it passed unanimously 8-0.

Irfan Rajpari, Request to be Relicensed After Revocation, Investigative File I-14,622

Upon discussion of the evidence and testimony presented by Mr. Rajpari regarding his request to be relicensed after a previous license revocation, Commissioner Cawthon made a motion to deny his request. Commissioner Denney seconded the motion and it passed unanimously 8-0.

Ronald Prince, Applicant for Reciprocal Salesperson's License, Investigative File I-14,663

Upon discussion of the evidence and testimony presented by Mr. Prince regarding his application for a reciprocal salesperson's license, Commissioner Wright made a motion to approve his request. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Phil Leslie Duke, Jr., Applicant for Salesperson's Temporary License After License Previously Lapsed and Recovery Fund Payout, Investigative File I-14,661

Commissioner Denney recused herself from this hearing.

Upon discussion of the evidence and testimony presented by Mr. Duke regarding his application for a salesperson's temporary license, Commissioner Cawthon made a motion to approve his application subject to his repayment to the Recovery Fund with interest, as prescribed by law, by June 1, 2016. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0.

Nancy T. Tran, Request to be Relicensed After Revocation, Investigative File I-14,668

Upon discussion of the evidence and testimony presented by Ms. Tran regarding her request to be relicensed after a previous license revocation, Commissioner Cawthon made a motion to approve her request. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR RULING

Shirley James, Request for Home Operation, Investigative File I-14,674

Upon review of Ms. James' hardship request for home operation, Commissioner Wright made a motion to approve her request. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Barbara H. Foster, Hardship Request for Renewal of Lapsed Salesperson's License, Investigative File I-14,682

Upon review of Ms. Foster's hardship request for renewal of a lapsed salesperson's license, Commissioner Wright made a motion to approve her request. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Price Stone, Jr., Request for Extension to Have Reciprocal Salesperson’s License Issued, Investigative File I-14,684

Upon review of Mr. Stone’s hardship request for an extension to have a reciprocal salesperson’s license issued, Commissioner Riggins-Allen made a motion to approve his request. Commissioner Wright seconded the motion and it passed unanimously 8-0.

CE Requirement Review – Review of Rule 790-X-1-.11(1) for 2017-18 License Period

Upon review of Rule 790-X-1-.11(1), which requires licensees to complete fifteen clock hours of continuing education for each license period, Commissioner Cawthon made a motion to maintain this requirement for the upcoming 2017-18 license period. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Michael Patrick Barbour, Surrender of License, Investigative File I-14,671

Upon review of Mr. Barbour’s surrender of his license in lieu of a formal complaint being filed and a hearing, Commissioner Wright made a motion to accept his surrender. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

There being no further discussion, the meeting adjourned at 12:42 p.m.

Done this 22nd day of October, 2015.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary