

MINUTES

The Alabama Real Estate Commission met September 24, 2004, in the Hearing Room of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

The Commission meeting was called to order at 9:10 a.m.

Those present were Chairman Bill Poole; Vice Chairman Gordon Henderson; Commissioners Roy Bragg, Bobby Hewes, Lyman Lovejoy, Chester Mallory and Ruth Whitley; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Special Investigators David Erfman and Chuck Kelly; Education Specialists Ryan Adair and David Bowen and Assistant Attorney General Tori Adams-Burk served as Hearing Officer. Commissioners Thomas Hays and Sheila Hodges were absent with notice.

Commissioner Bragg moved to adopt resolution honoring the Commission tenure of Ruth Whitley. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Commissioner Bragg moved to approve the August Minutes as presented. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Commissioner Bragg moved to schedule the October commission meeting Friday, October 22, in Auburn, in conjunction with the instructor seminar. Commissioner Lovejoy seconded the motion and it passed unanimously 7-0.

It was the consensus of the Commission to participate in the re-scheduled AAR convention in Montgomery and attend the Governmental and Political Affairs Committee Sunday October 17 to discuss the Commission's intention to pursue legislative amendments introduced last session again and to also host the Commission Open Forum on Monday afternoon October 18th. Chairman Poole indicated he would be prepared to call a special meeting, if necessary, to facilitate discussions and agreement on the Commission's legislative interest.

Commissioner Henderson moved to approve extending CE and other Education/Application deadline(s) to November 30, 2004. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

The August financial statements were distributed and reviewed with no action being taken.

Chairman Poole was designated as the Commission voting delegate to the ARELLO Conference in Pittsburgh. Also attending will be Pat Anderson and Philip Lasater.

HEARINGS

Alabama Real Estate Commission vs. Rene L. Cook, Formal Complaint No. 2814

Commissioner Henderson moved to dismiss Formal Complaint No. 2814. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Katherine L. Barfield, Formal Complaint No. 2804

Upon discussion of the evidence and testimony presented in the matter of Katherine L. Barfield, Qualifying Broker, Accent Real Estate and Investment Management, Dothan, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(1) by procuring or attempting to procure a license for himself/herself or another by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application; Count 2: Section 34-27-31(j) by failing to notify the Commission within ten days of the institution of criminal prosecution for negotiating worthless negotiable instruments; Count 3: Section 34-27-36(a)(19) by failing to comply with Section 34-27-31(k) by failing to notify the Commission within ten days of the plea of guilty and the resulting verdict of guilty for negotiating worthless negotiable instruments; Count 4: Section 34-27-36(a)(23)a. by entering a plea of guilty and the resulting verdict of guilty for negotiating worthless negotiable instruments, Commissioner Whitley moved to find Ms. Barfield guilty on count 1 and to fine her \$200. Commissioner Henderson seconded the motion and it passed unanimously 7-0.

Commissioner Henderson moved to find Ms. Barfield guilty of counts 2, 3, and 4 and to fine her \$100. Commissioner Whitley seconded the motion and it passed unanimously 7-0.

Marcus A. Ricks, Applicant for Temporary Salesperson's License, I-11,407

Upon discussion of Mr. Ricks' application for temporary salesperson license, Commissioner Bragg moved to approve the eligibility of licensure for a salespersons license for Marcus Ricks. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

NOT APPEARINGS

Revised Post License Course Outline – Required or Optional?

Commissioner Henderson moved to have all Instructors use the Commission prescribed curriculum for the Post License Course. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

Discussion and Consideration About Possibility of Commission Meetings being Approved for CE Credit

This item was for discussion and no action was required.

Alabama Real Estate Commission vs. Wendy May Nelson, Formal Complaint No. 2823

Upon discussion of the evidence and testimony presented in the matter of Wendy May Nelson, Qualifying Broker, Wendy Nelson Real Estate Brokerage, Esther, Florida, 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 in that she failed to notify the Commission within thirty days of having moved her office location, Commissioner Henderson moved to find Ms. Nelson guilty and to fine her \$250. Commissioner Whitley seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Michael S. Anderson, Formal Complaint No. 2824

Upon discussion of the evidence and testimony presented in the matter of Michael S. Anderson, Qualifying Broker, Real Source Brokerage Services LLC, Salt Lake City, Utah, and the alleged violation of the Code of Alabama 1975, as amended, Section Commissioner Bragg moved to find Mr. Anderson guilty and to fine him \$250. Commissioner Lovejoy seconded the motion and it passed unanimously 7-0.

Michael Stephenson, Requests Additional Time to Have Original License Issued, I-11,449

Upon discussion of Mr. Stephenson's request for an original license issuance extension, Commissioner Whitley moved to approve a 30 day extension for Mr. Stephenson to complete his post license requirement. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Paula S. Fullerton, Formal Complaint No. 2826

Upon discussion of the evidence and testimony presented in the matter of Paula S. Fullerton, Salesperson, Henderson and Spurlin, Inc., Albertville, 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, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Henderson moved to find Ms. Fullerton guilty and to fine her \$250. Commissioner Whitley seconded the motion and it passed 6-1 with Commissioner Mallory voting no.

David Henry, Request for Home Operation, I-11,452

Upon discussion of Mr. Henry's request for home operation, Commissioner Bragg moved to approve the hardship waiver request from Mr. Henry and further moved that all other brokers impacted by Hurricane Ivan be allowed to operate from alternative temporary locations for a period of six months and that any transfer fee associated with the temporary relocation also be waived during this period. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

There being no further business, the Commission adjourned at 11:35 a.m.

Done this 24th day of September, 2004.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary