

MINUTES

A meeting of the Alabama Real Estate Commission was held January 17, 2019 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Danny Sharp; Commissioners Emmette Barran, Reid Cummings, Cindy Denney, Joyce Harris, Carole Harrison, Vaughn Poe, and Susan Smith; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Mandy Lynn; Investigators David Erfman, K.C. Baldwin and Rickey Fennie. The Hearing Officer was Jim Hampton.

Other staff members in attendance for all or part of the meeting were Public Relations Director Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham; Education Director Ryan Adair, Education Specialist Julie Norris; Accounting and Personnel Director Molli Jones; Information Technology Director Brett Scott; Licensing Administrator Anthony Griffin and Executive Assistant Barbi Lee.

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.

Vice Chairman Sharp made a motion to approve the minutes from the November 29, 2018 Commission meeting. Commissioner Barran seconded the motion and it passed unanimously 9-0.

Executive Director Pat Anderson presented the October and November 2018 financial reports. For the first two months of FY19, revenues increased slightly and expenditures are about the same as 2018. The amount paid to other state agencies is \$41,000. Regarding the Recovery Fund, income is greater than expenses. Ms. Anderson informed Commissioners that the new mileage rate effective January 1st is now \$0.58 per mile.

Ms. Anderson announced that the CyberBest database will be live in the coming months when the new ELIAS program is up and running. This is a more robust database management system that will allow more flexibility than the current system.

Ms. Anderson discussed upcoming training opportunities with Commissioners including ACREres and ACREcom on February 7 and 8, Sunset Training with the Examiners of Public Accounts on March 1 and the 2019 ARELLO[®] Mid-Year Meeting on April 10-13. Commissioners were reminded that the March 21 Commission meeting will be held in Cullman.

Ms. Anderson explained it was time for our Sunset Review Audit, but the Commission has not been notified by the Examiners. She shared that the only finding from the last Sunset Review regarding low school pass rates has been successfully addressed. She also discussed a new master elevator contract that is now in effect from State Purchasing and includes the Real Estate Commission in that contract. It contains a substantial increase in the Commission's

monthly payment. Ms. Anderson has reached out to the Assistant Director of Finance for guidance.

The results of the RFP were discussed. There were 825 notifications sent out electronically and by mail. At the public opening on January 16, 2019, there were nine submissions. Three submissions were disqualified due to improper documentation being submitted. Chairman Watts instructed Commissioners to utilize the evaluation tool provided to them and referenced in the RFP to independently evaluate the proposals. They were reminded of the timeline.

General Counsel Mandy Lynn provided an appeals update to the Commissioners. She indicated there will be upcoming payment requests from the Recovery Fund.

COMMISSIONER DISCUSSION

JDanny Cooper appeared before the Commission to express his appreciation for the opportunity to work with the Commission for the past four years. As the Strategic Planning Consultant, he is proud of what the Commission has accomplished in meeting the goals set out in the Strategic Plan. He wished Commissioners all the best in future endeavors.

Mr. Watts, along with entire Commission, expressed appreciation to Mr. Cooper for his service to the Commission, staff and all licensees in the state of Alabama.

Chairman Watts discussed the results of the Task Force survey. The first overall choice was Virtual Offices and Broker Supervision and next was RECAD Limited Consensual Agency vs. Designated Agency. Mr. Watts indicated there will be four Commissioners assigned to each Task Force. He asked Commissioners to discuss with licensees in their district who they feel would be appropriate and willing to work on this project. Each Commissioner will submit two names from their district for each task force and one will be appointed later.

Vice Chairman Sharp made a motion to break for lunch at 12:00 p.m. and return at 12:30 p.m. Commissioner Barran seconded the motion and it passed unanimously 9-0.

All members of the Commission returned at 12:30 p.m. to continue the meeting.

Chairman Watts called for an Executive Session at 1:44 p.m. for 3-4 minutes to allow Commissioners to receive advice from General Counsel Mandy Lynn. Vice Chairman Sharp made a motion to go into Executive Session for 3-4 minutes to receive advice from counsel. Commissioner Cummings seconded the motion and it passed unanimously 9-0. Commissioners reconvened in Open Meeting at 1:47 p.m. with all Commissioners present.

Commissioner Harrison made a motion that Commissioners conduct disciplinary hearing disposition discussions in an Open Meeting. Commissioner Cummings seconded the motion and it passed unanimously 9-0.

HEARINGS AND APPEARINGS

Alexandra Scott, Application for Real Estate Salesperson Temporary License, Investigative File I-15,458

Upon discussion of the evidence and testimony presented by Ms. Scott regarding her application for real estate salesperson temporary license, Commissioner Cummings made a motion to approve her application. Commissioner Poe seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Kisa Harris, Formal Complaint No. 3477

Kisa Harris, Salesperson, Premiere Hoover LLC, d/b/a Keller Williams Hoover, Birmingham, Alabama, was charged on **Count 1** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Commission Rule 790-X-3-.03(2) in her failure to pay over to her qualifying broker all funds coming into her possession in trust for other parties immediately upon receipt of same. Ms. Harris was 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 by misrepresenting the selling company on the face of the contract when she was not licensed with that company.

Commissioner Smith made a motion to find Ms. Harris guilty on **Count 1**. Commissioner Denney seconded the motion and it passed 8-1 with an abstention from Chairman Watts.

Commissioner Denney made a motion to find Ms. Harris guilty on **Count 2**. Commissioner Barran seconded the motion and it passed 8-1 with an abstention from Chairman Watts.

Commissioner Poe made a motion for revocation of Ms. Harris' license and \$2,500 fine for each count for a total of \$5,000. Commissioner Smith seconded the motion and it passed 8-1 with an abstention from Chairman Watts.

Camby Smith, Application for Real Estate Salesperson Temporary License, Investigative File I-15,465

Upon discussion of the evidence and testimony presented by Ms. Smith regarding her application for real estate salesperson license, Commissioner Harrison made a motion to approve her application. Commissioner Barran seconded the motion and it passed unanimously 9-0.

John W. Howard, Request to Consider Previous License Experience to Meet Broker Requirements, Investigative File I-15,466

Commissioner Cummings recused himself.

Upon discussion of the evidence and testimony presented by Mr. Howard regarding his request to consider previous license experience to meet broker requirements, Commissioner Denney made a motion to deny his request. Commissioner Barran seconded the motion and it passed 8-0 with one recusal.

Donna Young, Application for Real Estate Salesperson Temporary License, Investigative File I-15,463

Upon discussion of the evidence and testimony presented by Ms. Young for her application for real estate salesperson temporary license, Commissioner Cummings made a motion to approve her application. Commissioner Poe seconded the motion and it passed unanimously 9-0.

Demarcus Clifton Black, Application for Determination of Licensing Eligibility, Investigative File I-15,431

Upon discussion of the evidence and testimony presented by Mr. Black for his application for determination of licensing eligibility, Commissioner Barran made a motion to deny his application. Commissioner Denney seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Eric Cochran and Peerless Property Managers, Formal Complaint No. 3478

Eric Cochran, Salesperson, Peerless Property Managers, Tuscaloosa, Alabama, and Peerless Property Managers violated the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by violating or disregarding the order of the Commission to pay fines of \$2,500 each.

The payment for the \$5,000 fine was received in the Commission office on January 10, 2019.

Commissioner Cummings made a motion to find Eric Cochran and Peerless Property Managers guilty and fine each one \$250.00. Commissioner Barran seconded the motion and it passed 8-1 with Commissioner Poe voting against the motion.

Alabama Real Estate Commission vs. Michelle Lee Baker and Cedrick Baker, Formal Complaint No. 3480

Commissioner Barran recused himself.

Michelle Lee Baker, Temporary Salesperson, Tan Ankles Network LLC, d/b/a RE/MAX Wired, Anniston, Alabama was charged on **Count 1** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(15) by advertising herself as a real estate salesperson without the name or trade name of her qualifying broker or company under whom she is licensed

appearing prominently on the advertising. Ms. Baker was charged on **Count 2** with violating the *Code of Alabama 1975*, as amended, Section 34-27-36(a)(17) by establishing an association, by employment or otherwise, with an unlicensed person (Cedrick Baker) who is expected or required to act as a licensee or aiding, abetting, or conspiring with a person to circumvent the requirements of the Alabama Real Estate License Law. Mr. Baker was charged on **Count 3** with violating the *Code of Alabama 1975*, as amended, Section 34-27-36(a)(1) by procuring or attempting to procure a license for himself by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in his testimony before the Commission in conjunction with his temporary salesperson's application.

Vice Chairman Sharp made a motion to find Ms. Baker guilty on **Count 1**. Commissioner Smith seconded the motion and it passed 8-0 with one recusal.

Vice Chairman Sharp made a motion to find Ms. Baker guilty on **Count 2**. Commissioner Denney seconded the motion and it passed 7-1 with Commission Poe voting against the motion.

Commissioner Poe made a motion to issue a reprimand to Ms. Baker on Counts 1 and 2 and require her to attend and complete the 3-hour CE course, Risk Management 1, (in class) within 90 days of receipt of the Order. It passed 8-0 with one recusal.

Commissioner Harrison made a motion to find Mr. Baker not guilty on **Count 3**. Commissioner Harris seconded the motion and it passed 8-0 with one recusal.

Lisa Thornton, Application for Determination of Licensing Eligibility, Investigative File I-15,455

Commissioner Smith offered to recuse herself from this hearing, but Ms. Thornton declined her offer.

Upon discussion of the evidence and testimony presented by Ms. Thornton for her application for determination of licensing eligibility, Commissioner Harrison made a motion to approve her application. Commissioner Poe seconded the motion and it passed unanimously 9-0.

NOT APPEARINGS

Cory Taylor Rasmus, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3476

Cory Taylor Rasmus, Salesperson, Coldwell Banker Kennon Parker Duncan and Davis, Columbus, Georgia, was charged with violating the *Code of Alabama 1975*, as amended, Section 34-27-36(a)(16) by submitting an online electronic check payment to the Alabama Real Estate Commission, as payment for a fee or fine, which was returned unpaid by the bank upon which it was drawn.

Commissioner Cummings made a motion to find Mr. Rasmus guilty and fine him \$250. Commissioner Smith seconded the motion and it passed unanimously 9-0.

Marla R. Davis, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3465

Marla R. Davis, Inactive Associate Broker, Birmingham, Alabama, 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 Cummings made a motion to find Ms. Davis guilty and fine her \$250. Commissioner Barran seconded the motion and it passed unanimously 8-1 with Commissioner Harrison voting against the motion.

Lakesha Farris, Request for Extension of the 12-Month Deadline to Pass the Salesperson License Examination, Investigative File I-15,474

Upon review of the request by Ms. Farris for an extension of the 12-month deadline to pass the salesperson's examination, Commissioner Harrison made a motion to deny her request. Commissioner Denney seconded the motion and it passed unanimously 9-0.

Delano Scott Austin, Request for Extension of the 6-Month Deadline to Pass the Salesperson License Examination, Investigative File I-15,470

Upon review of Mr. Austin's hardship request for a deadline extension for passing the salesperson license examination, Commissioner Barran made a motion to approve a 60-day extension effective the date the Notice is received. Vice Chairman Sharp seconded the motion and it passed unanimously 9-0.

Melissa Gilbert, Request for Extension of the 6-Month Deadline to Pass the Salesperson License Examination, Investigative File I-15,475

Upon review of the request by Ms. Gilbert for a 60-day deadline extension to take and pass the salesperson license examination, Commissioner Harrison made a motion to approve a 60-day extension effective the date the Notice is received. Commissioner Barran seconded the motion and it passed unanimously 9-0.

Bridgette Thomas, Request for Extension of Deadline to Pass the Salesperson License Examination, Investigative File I-15,476

Upon review of the request by Ms. Thomas for a 60-day deadline extension to take and pass the salesperson's license examination, Commissioner Cummings made a motion to approve a 60-day extension effective the date the Notice is received. Commissioner Smith seconded the motion and it passed unanimously 9-0.

Confirm March Meeting Date and Location for the Record: March 21, 2019, 9:00 a.m. in Cullman, Alabama

Commissioner Barran made a motion to approve the March meeting for March 21, 2019 at 9:00 a.m. in Cullman, Alabama. Commissioner Poe seconded the motion and it passed unanimously 9-0.

Next Commission Meeting: Thursday, February 21, 2019, 9:00 a.m. in Montgomery, Alabama

Chairman Watts called for an Executive Session at 2:10 p.m. for ±30 minutes to allow Commissioners to receive advice from General Counsel Mandy Lynn. Commissioner Poe made a motion to go into Executive Session for ±30 minutes to receive advice from counsel. Commissioner Cummings seconded the motion and it passed unanimously 9-0. Commissioners reconvened in Open Meeting at 2:37 p.m. with all Commissioners present.

There being no further business, the meeting adjourned at 2:45 p.m.

Done this 17th day of January 2019.

Bill Watts, Chairman

Barbi Lee, Recording Secretary