

## MINUTES

The Alabama Real Estate Commission met July 14, 2006, in the Commission Hearing Room of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Chairman Poole called the meeting to order at 9:00 a.m. A quorum was declared upon the meeting having been duly noticed as required by the Open Meetings Act. Chairman Poole welcomed guests. Commissioner Lovejoy introduced Gabby Melton from St. Clair County.

Those present were Chairman Bill Poole; Vice Chair Sheila Hodges; Commissioners Roy Bragg, Jewel Buford, Thomas Hays, Gordon Henderson, Bobby Hewes, Lyman Lovejoy and Chester Mallory; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Education Director Ryan Adair; Special Investigators David Erfman and Chuck Kelly and Hearing Officer Tori Adams.

Commissioner Hodges moved to approve the June Commission meeting minutes as presented. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

The June financial statements were reviewed with expenditure and revenue comparisons and fund balances noted. No action was taken.

Chairman Poole appointed Commissioners Henderson and Hodges to serve on a task force to review potential enforcement and public information implementations relative to the new jurisdiction over unlicensed real estate activity.

Chairman Poole appointed Commissioners Bragg and Buford to serve on the joint AAR/AREC Task Force to review potential amendments to Alabama License Law, with the repeal of the reference to size of letters in advertising being of particular focus. General Counsel Charles Sowell will be made available to consult as needed and Chairman Poole will serve ex-officio. The Executive Director was instructed to communicate these appointments to Mr. Tom Owings, AAR President-elect and Chair of Governmental Affairs.

Education Director Ryan Adair presented information on development of potential proposals for increasing broker license requirements. Specifically, the recommendation was to approve establishing a 60 hour broker pre-license requirement, establish a task force comprised of brokers, instructors and Commissioners to develop a course and to move toward incorporation of simulation in broker testing. Commissioner Hewes moved to adopt the recommendations and to approve the establishment of the task force. Commissioner Hays seconded the motion and it passed unanimously 9-0. Chairman Poole appointed Commissioner Mallory to serve from the Commission on the task force when formed.

A demonstration of the simulation will be presented in the training room at the next Commission meeting.

Executive Director Philip Lasater reported that newly appointed commissioners have been scheduled for an in-house orientation on August 16 and plan to attend the examiners training on August 23<sup>rd</sup>.

Commissioner Bragg requested copies of audit report summaries on instructors and was told that these would gladly be prepared and forthcoming to commissioners.

Executive Director Philip Lasater reported there had been no written comments received on any of the proposed amendments to rules. Commissioner Bragg moved to adopt the rules as proposed and rule 790-X-3-.03 as amended. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

Commissioner Henderson moved to re-schedule the August meeting from the 11<sup>th</sup> to the 18<sup>th</sup>. Commissioner Hays seconded the motion and it passed unanimously 9-0.

Chairman Poole called the Commission in to executive session for deliberation on the disposition of the hearings. A vote will be taken in this session as the results will be published in written orders. Chairman Poole stated the Commission would reconvene in open session to consider other business.

## HEARINGS

### **Alabama Real Estate Commission vs. Donald W. Martin and Robert J. Fedder, Formal Complaint No. 2936**

Upon discussion of the evidence and testimony presented in the matter of Robert J. Fedder, Qualifying Broker and Donald W. Martin, Salesperson, JME Realty Company d/b/a Coldwell Banker JME Realty Company Incorporated, Daphne, Alabama, and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(3) by making a material misrepresentation to the buyer and Count 2: Section 34-27-36(a)(19) by failing to properly supervise the activities of Salesperson Martin in accordance with the Code of Alabama 1975, as amended, Section 34-27-34(a)(2)...A qualifying broker shall be held responsible to the commission and to the public for all acts governed by this chapter of each salesperson and associate broker licensed under him/her and of each company for which he or she is the qualifying broker, Commissioner Hodges moved to find Mr. Martin guilty on count#1 and to fine him \$1000. Commissioner Henderson seconded the motion and it passed unanimously 9-0. Commissioner Hodges moved to find Mr. Fedder guilty on count # 2, reprimand him and fine him \$500. Commissioner Hewes seconded the motion and it passed unanimously 9-0

### **Jeffrey Scott Farmer, Applicant for Temporary Salespersons License, I-12,116**

Upon consideration of the evidence and testimony presented by Mr. Farmer in his application for temporary salesperson's license, Commissioner Hodges moved to approve issuance of his temporary sales license. Commissioner Lovejoy seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. Nita Summers Jones, Formal Complaint No. 2934**

Upon discussion of the evidence and testimony presented in the matter of Nita Summers Jones, Associate Broker, Daniel Homes LLC d/b/a Ingram and Associates Branch, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-35(j)(1) and Alabama Real Estate Commission Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates showing the completion of all the required continuing education course hours by the deadline, Commissioner Bragg moved to dismiss Formal Complaint #2934. Commissioner Hays seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. Lisa R. Colston, Formal Complaint No. 2930**

Upon discussion of the evidence and testimony presented in the matter of Lisa R. Colston, temporary salesperson, The Buyer's House, Bessemer, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(1) by procuring or attempting to procure a license for himself/herself, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact on an application, Commissioner Hodges moved to dismiss Formal Complaint # 2930. Commissioner Hays seconded the motion and it passed unanimously 9-0.

**Luciana D. Guin, Applicant for Temporary Salesperson's License, I-11,916**

Upon review of the temporary salespersons license application submitted by Ms. Guin, Commissioner Hays moved to approve her eligibility for a temporary sales license. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. Richard Walton Arends, Formal Complaint No. 2940**

Upon discussion of the evidence and testimony presented in the matter of Richard Walton Arends, Temporary Salesperson, Distinctive, Inc. d/b/a GMAC Real Estate, Huntsville, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, 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 for a license, Commissioner Hays moved to dismiss Formal Complaint # 2940. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

**Brian Keith Burckardt, Application for Determination of Licensing Eligibility, I-12,023**

Upon consideration of the evidence and testimony presented by Mr. Burckardt, Commissioner Lovejoy moved to approve his license eligibility. Commissioner Hodges seconded the motion and it passed 8-1 with Commissioner Buford voting no.

**Regina Nicole Caiola, Denied Application for Temporary Salesperson 's License, I-12,007**

Commissioner Bragg indicated he was familiar with Ms. Caiola's family but believed he could render a fair and impartial judgment. This statement was acceptable to the Respondent. Upon consideration of the evidence and testimony presented by Ms. Caiola, Commissioner Hewes moved to approve her license eligibility. Commissioner Hays seconded the motion and it passed unanimously 9-0.

**John C. Wilson, Applicant for Temporary Salesperson's License, I-12,008**

Upon consideration of the evidence and testimony presented by Mr. Wilson, Commissioner Hays moved to approve his temporary sales application. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. Dorothy M. Walther, Formal Complaint No. 2902**

Upon discussion of the evidence and testimony presented in the matter of Dorothy M. Walther, Inactive Salesperson, Mobile, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-35(j)(1) and Alabama Real Estate Commission Rules 790-X-1-.12(8) and 790-X-1-/12(9) by failing to provide to the Commission, upon request, original certificates showing the completion of all the required continuing education course hours by the deadline and by the false or inaccurate filing of the renewal, Commissioner Henderson moved to grant a continuance until the next meeting in Montgomery for which she should be encouraged to attend or the Commission would consider revoking her license. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

**Emily Diane Farris, Hardship Renewal of Lapsed License, I-12,032**

Upon consideration of Ms. Farris' request for renewal under hardship provision, Commissioner Hewes moved to deny Ms. Farris' renewal request. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

**NOT APPEARINGS**

**Matthew John Jones, Applicant for Determination of Licensing Eligibility, I-12,009**

Upon consideration of the licensing eligibility of Mr. Jones, Commissioner Henderson moved to approve his eligibility. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

**Kenneth Angelo Johnson, Applicant for Determination of Licensing Eligibility, I-12,114**

Upon consideration of the licensing eligibility of Mr. Johnson, Commissioner Hodges moved to approve her eligibility. Commissioner Lovejoy seconded the motion and it passed unanimously 9-0.

**Valerie R. Wilson, Applicant for Temporary Salesperson's License, I-12,028**

Upon review of the temporary salesperson's application submitted by Ms. Wilson, Commissioner Hodges moved to deny her eligibility. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

**Laurence Perry, Applicant for Determination of Licensing Eligibility, I-12,039**

Upon consideration of the licensing eligibility of Mr. Perry, Commissioner Hodges moved to deny his eligibility. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

**Holly J. Hamner, Applicant for Temporary Salesperson's License, I-12,042**

Upon review of the temporary salesperson's application submitted by Ms. Hamner, Commissioner Hewes moved to approve her application. Commissioner Hays seconded the motion with it passed unanimously 9-0.

Chairman Poole called the Commission back into open session. Upon discussion of the increased responsibility in the enforcement area coming with Act 06-601(unlicensed activity) effective July 1 and the developing implications for compliance and in recognition of previous performance as overall enforcement efforts have been expanded including three auditors and approval of three more investigator positions, Commissioner Hodges moved to recommend promotion of Charles Sowell to an Attorney IV classification and direct the Executive Director to communicate the Commission's wishes and intent to the State Department of Personnel. Commissioner Hays seconded the motion and it passed unanimously 9-0.

There being no further discussion, the Commission adjourned at 1:10 p.m.

Done this 14<sup>th</sup> day of July, 2006.

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Bill E. Poole, Chairman

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D. Philip Lasater, Recording Secretary