

## MINUTES

A meeting of the Alabama Real Estate Commission was held March 20, 2014 at the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Nancy Wright; Commissioners Jewel Buford, Steve Cawthon, Carole Harrison, Clif Miller, Dorothy Riggins-Allen and Danny Sharp; Executive Director Patricia Anderson; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly, Phillip Bunch and K. C. Baldwin; and Auditor Anthony Brown. Tori Adams served as Hearing Officer. Commissioner Reid Cummings was absent with notice.

Other staff members present for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham and IT Manager Brett Scott.

The meeting having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:00 a.m. by Chairman Bill Watts and a quorum was declared.

Commissioner Sharp made a motion to approve the minutes from the February 19, 2014 meeting. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Executive Director Pat Anderson reported on the financials stating that expenses are under projection and revenue is slightly over projection. She provided Commissioners with a chart showing the number of salespersons and brokers who have taken licensing examinations from 1974-2014. The chart shows that the numbers testing track directly with the economy. Of interest is that the numbers testing from 2009-2012 were below the number that tested in 1974. They began trending back up in 2012 and continue to increase. This is a good sign for future revenue projections.

Ms. Anderson reported that Recovery Fund payouts for FY14 thus far exceeds revenues by \$12,000. While the Recovery Fund remains sound, the balance bears watching.

The AAR (Alabama Association of REALTORS®) 2014 Summer Meeting will be held June 8-11 in Sandestin, Florida. AAR has provided a time slot in its meeting schedule for a Commission Open Forum on Tuesday, June 10. Commissioner Buford made a motion to hold an Open Forum at the AAR Summer Meeting on Tuesday, June 10, 8:30-9:15 a.m. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

The ARELLO (Association of Real Estate License Law Officials) 2014 District 2-3 Conference will be held June 3-5 in Omaha, Nebraska. Commissioners will receive information on the Conference in coming weeks.

Chairman Watts provided an update on the Commissioners' February 19, 2014 meeting with the State of Alabama Personnel Department. Commissioners made a formal request to fill the position of Assistant Executive Director and it was approved. Commissioners were provided salary guidelines in writing that have been approved by the Personnel Department and signed by Governor. Robert Bentley. Under these guidelines, if an external candidate is hired for the position, the maximum salary

will be the same as the current salary for the position. However, if a state employee is hired there can only be a five percent pay increase above the employee's current salary.

Chairman Watts appointed an Assistant Executive Director Search Committee comprised of Commissioners Nancy Wright, Carole Harrison and Dorothy Riggins-Allen. Commissioner Wright will serve as the search committee chairman and Chairman Watts will serve as an ex-officio member. Commissioner Wright made a motion that the search committee utilize consulting services as provided by Auburn University Montgomery under the Commission's Letter of Agreement to fill the Assistant Executive Director's position in accordance with the position requirements outlined in Section 34-27-7 of Alabama License Law. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

Education Director Ryan Adair presented an overview of proposed amendments to Rules 790-X-1-.06, 790-X-1-.07, 790-X-1-.08, 790-X-1-.09, 790-X-1-.17 and 790-X-1-.18. Commissioner Buford made a motion that the proposed rule amendments be submitted to the Alabama Legislative Reference Service and set for public hearing and that other appropriate notice be given to interested persons as well as advertised on the Commission's website. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

General Counsel Chris Booth provided an update of the appeals filed by Billie Moore and C. A. Anderson. The judge upheld the revocation of C. A. Anderson's license on August 24, 2012 and that case has been completed. The judge in Billie Moore's appeal case amended the Commission's disciplinary action and reduced the Commission's revocation of Ms. Moore's license declaring that her broker license be downgraded to a salesperson license. The Commission has the option to appeal this decision. Commissioner Cawthon made a motion that the Commission appeal the judge's decision in Ms. Moore's case. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Commissioner Cawthon made a motion that Commissioners conduct hearing disposition discussions and decisions in open meeting. Commissioner Wright seconded the motion and it passed unanimously 8-0.

## **HEARINGS AND APPEARINGS**

### **Alabama Real Estate Commission vs. LaShawn D. Anthony, Formal Complaint No. 3337**

Upon discussion of the evidence and testimony presented in the matter of LaShawn D. Anthony, Salesperson, Hodges Real Estate d/b/a Exit Hodges Real Estate, Montgomery, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(23)a. by having entered a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or crime involving moral turpitude, Commissioner Cawthon made a motion to find Ms. Anthony guilty. Commissioner Buford seconded the motion and it passed unanimously 8-0. Commissioner Wright made a motion to fine her \$500 with a reprimand. Commissioner Riggins-Allen seconded the motion and it passed 4-3. Commissioners Harrison, Buford and Cawthon voted against the motion.

**Alabama Real Estate Commission vs. Honors Real Estate and Asset Management; William Lloyd Whitworth, Jr.; Walter Valentine, Jr.; and Blake Bassham, Formal Complaint No. 3338**

Upon discussion of the evidence and testimony presented in the matter of Honors Real Estate and Asset Management, Birmingham, Alabama; William Lloyd Whitworth, Jr., Qualifying Broker, Honors Real Estate and Asset Management, Birmingham, Alabama; Walter Valentine, Jr., Former Qualifying Broker, Honors Real Estate and Asset Management, Birmingham, Alabama; and Blake Bassham, Salesperson and Owner/Partner, Honors Real Estate and Asset Management, Birmingham, Alabama, and the alleged violations of the *Code of Alabama* 1975, as amended, Count 1: Sections 34-27-36(a)(8)a. and 34-27-36(a)(8)b. by Respondents Valentine and Bassham failing to deposit and account for at all times all funds belonging to, or being held for others, in a separate federally insured account or accounts in a financial institution located in Alabama by having negative balances in both the rents trust account and the security deposit account; Count 2: Sections 34-27-36(a)(8)a. and 34-27-36(a)(8)b. by Respondents Whitworth and Bassham failing to deposit and account for at all times all funds belonging to, or being held for others, in a separate federally insured account or accounts in a financial institution located in Alabama by failing to see that money orders from tenants collected on December 5 and 6, 2013, were deposited by the time of the audit's conclusion on January 21, 2014; Count 3: Sections 34-27-36(a)(8)a. and 34-27-36(a)(8)b. by Respondents Valentine and Bassham failing to deposit and account for at all times all funds belonging to, or being held for others, in a separate federally insured account or accounts in a financial institution located in Alabama by having paid repairs on behalf of individual property owners from the rents trust account when those individual owners did not have sufficient funds in the trust account causing negative balances in the trust account; Count 4: Section 34-27-36(a)(19) by Respondents Valentine and Whitworth failing to comply with Alabama Real Estate Commission Rule 790-X-3-.03(4) referencing "All funds to be held in trust, whether by contract for sale, or by lease or property management agreement, shall be held and accounted for and deposited by the qualifying broker who is providing these services..." and which further states in part..."In cases where a successor qualifying broker is to provide these services, the first broker shall provide a complete accounting of the funds and shall transfer the funds to the successor broker."

Chairman Watts abstained from deliberating and voting on all counts of this case. Commission Vice Chairman Wright presided over the deliberations and abstained from voting on all counts of this case.

On Count 1, Commissioner Cawthon made a motion to find Mr. Bassham guilty. Commissioner Riggins-Allen seconded the motion and it passed 6-0. Commissioner Buford made a motion to find Mr. Valentine not guilty. Commissioner Riggins-Allen seconded the motion and it passed 5-1. Commissioner Harrison voted against the motion. Commissioner Cawthon made a motion to revoke Mr. Bassham's license. Commissioner Riggins-Allen seconded the motion and it passed 5-1. Commissioner Sharp voted against the motion.

On Count 2, Commissioner Buford made a motion to find Mr. Whitworth not guilty. Commissioner Riggins-Allen seconded the motion and it passed 6-0. Commissioner Buford made a motion to find Mr. Bassham guilty. Commissioner Miller seconded the motion and it passed 6-0. Commissioner Buford made a motion to revoke Mr. Bassham's license. Commissioner Cawthon seconded the motion and it passed 5-1. Commissioner Harrison voted against the motion.

On Count 3, Commissioner Riggins-Allen made a motion to find Mr. Bassham guilty. Commissioner Buford seconded the motion and it passed 6-0. Commissioner Riggins-Allen made a motion to find Mr. Valentine not guilty. Commissioner Buford seconded the motion and it passed 4-2. Commissioners Cawthon and Harrison voted against the motion. Commissioner Buford made a motion to fine Mr. Bassham \$2,500 and revoke his license. Commissioner Sharp seconded the motion and it passed 6-0.

On Count 4, Commissioner Cawthon made a motion to find Mr. Whitworth guilty, reprimand him and fine him \$500. Commissioner Buford seconded the motion and it passed 6-0. Commissioner Buford made a motion to find Mr. Valentine not guilty. Commissioner Riggins-Allen seconded the motion and it passed 4-2. Commissioners Cawthon and Harrison voted against the motion.

**NOT APPEARING ITEMS FOR RULING**

**James Richard Howard, Revoked Broker Licensee, Request for Rehearing, Formal Complaint No. 3333**

Upon review of the application for rehearing submitted by Mr. Howard, Commissioner Cawthon made a motion to deny his request. Commissioner Wright seconded the motion and it passed unanimously 8-0.

**Taquilla Love, Application for Determination of Licensing Eligibility, I-14,269**

Upon review of the application for determination of licensing eligibility by Ms. Love, Commissioner Sharp made a motion to approve her application. Commissioner Miller seconded the motion and it passed unanimously 8-0.

**Davida Dionne Davidson, Hardship Request for Home Operation, I-14,273**

Upon review of Ms. Davidson's hardship request for home operation, Commissioner Buford made a motion to deny her request. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

**Janice F. O'Bryan-Sourni, Salesperson Applicant, Request for 60-Day Extension to Take the Salesperson Examination, I-14, 278**

Upon review of the request for a 60-day extension to take the salesperson examination by Ms. Bryan-Sourni, Commissioner Cawthon made a motion to deny her request. Commissioner Buford seconded the motion and it passed 7-1. Commissioner Sharp voted against the motion.

**Confirm Next Meeting Date and Location for the Record: April 23 or 24, 2014, Montgomery, Alabama, 9:00 a.m.**

Commissioner Riggins-Allen made a motion to approve the next Commission meeting date and location for April 23, 2014 at 9:00 a.m. in Montgomery. Commissioner Wright seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 1:36 p.m.

Done this 20<sup>th</sup> day of March, 2014.

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Bill Watts, Chairman

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Lori Moneyham, Recording Secretary