

MINUTES

A meeting of the Alabama Real Estate Commission was held April 18, 2013, 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, Carole Harrison, Dorothy Riggins-Allen, and Danny Sharp; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; General Counsel Chris Booth; Assistant Attorney General Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Phillip Bunch, Chuck Kelly, and K.C. Baldwin; and Auditor Anthony Brown. Tori Adams served as Hearing Officer. Commissioners Jewel Buford and Clif Miller were absent with notice.

Other staff members in attendance for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, Information Technology Manager Brett Scott; and IT Systems Specialist Steven Brown.

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

Commissioner Riggins-Allen made a motion to approve the March minutes as presented. Commissioner Cawthon seconded the motion and it passed unanimously 7-0.

In the Executive Director's Report, Mr. Lasater directed Commissioners to the Investment report for March and to the Revenue and Expenditures report for March. He noted that expenditures for March 2013 tracked almost the same as expenditures for March 2012. Thus far for FY 2013 expenditures are below revenues leaving the Commission with a healthy cash flow that will continue to be monitored. The March investments report reflects the adjustments noted at the March meeting with investments now standing at \$7,588,435. \$2,160,000 of that figure is obligated for FY 14 from renewal money.

Mr. Lasater updated Commissioners on the SAVE program. The Commission made an application to participate in the SAVE program about 18 months ago as a result of Immigration legislation and at the direction of Examiners. About two months ago we received our Memorandum of Understanding that we executed in order to participate. For applicants who cannot produce appropriate documentation of citizenship or legal presence, the Commission will submit through the SAVE program to verify if the applicant meets this requirement for licensure. This will ensure compliance with state and federal laws for this process.

The Legislature created an Office of Information Technology and the Governor appointed Mr. Brunson White as the Director. It is unclear at this point how this will affect the Commission and our IT operations.

Governor Bentley, through Executive Order, created the Office of Fleet Management established under DOT (Department of Transportation). There is legislation pending that will conform to the Executive Order. The DOT Director recently held a meeting for Boards and Commissions. The understanding at this point is that the Office of Fleet Management will handle procurement and servicing of state vehicles and that users of any of the vehicles will be charged a per mile rate. We are unsure of the impact on the Commission but will continue to monitor and report to you.

Mr. Lasater noted that the Strategic Plan has been distributed to Commissioners. Mr. Lasater and Ms. Anderson have reviewed and have questions that Commissioners can address as they review it. Appropriate adjustments can be made. Chairman Watts asked Commissioners to spend time reviewing this very aggressive Strategic Plan and be prepared for discussion at the May meeting.

General Counsel Chris Booth reviewed a time share report with Commissioners. He noted that the Commission, by law, registers time share projects. That entails original registrations, registration renewals and review, and approval of advertising submissions. Mr. Booth also reviewed a report on lawsuits against licensees from mid-2011-March 2013. He then reviewed a report on pending recovery fund cases to show the cases that may result in recovery fund payouts. The last report covered recent recovery fund cases that resulted in payouts.

Commissioner Cawthon made a motion that Commissioners conduct hearing disposition discussions and decisions in open meeting. Commissioner Sharp seconded the motion and it passed unanimously 7-0.

HEARINGS AND APPEARINGS

Kelli Suzanne Pate, Determination of Licensing Eligibility, I-14,054

Upon discussion of the evidence and testimony presented by Ms. Pate regarding application for determination of license eligibility, Commissioner Cawthon made a motion to approve Ms. Pate's request. Commissioner Sharp seconded the motion and it passed 6-0. Commissioner Watts abstained.

Alabama Real Estate Commission vs. Efrain D. Hernandez, Formal Complaint No. 3302

Upon discussion of the evidence and testimony presented in the matter of Efrain D. Hernandez, Salesperson, Coldwell Banker Prestige Homes Real Estate d/b/a Coldwell Banker Prestige Homes, Enterprise, Alabama, and the alleged violations of the *Code of Alabama* 1975, as amended, Count 1: Lot 1 Block B - Section 34-27-36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a license is required from any person except his qualifying broker; Count 2: Lot 1 Block C – Section 34-27-36(a)(14) by accepting commissions or other valuable consideration for performing acts for which a real estate license is required from any person except his qualifying broker; Count 3: Lot 1 Block A – Section 34-27-

36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a real estate license is required from any person except his qualifying broker; Count 4: Lot 6 Block C – Section 34-27-36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a real estate license is required from any person except his qualifying broker; Count 5: Lot 10 Block B – Section 34-27-36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a real estate license is required from any person except his qualifying broker; Count 6: Lot 16 Block B – Section 34-27-36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a real estate license is required from any person except his qualifying broker; Count 7: Lot 16 Block D – Section 34-27-36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a real estate license is required from any person except his qualifying broker; Count 8: Lot 1 Block D – Section 34-27-36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a real estate license is required from any person except his qualifying broker; Count 9: Lot 29 Block A – Section 34-27-36(a)(14) by accepting commissions or other valuable considerations for performing acts for which a real estate license is required from any person except his qualifying broker, the following action was taken: Commissioner Dorothy Riggins-Allen made a motion to find Mr. Hernandez guilty on all counts and to suspend his license for one year. Commissioner Cawthon seconded the motion. Commissioner Cummings made a motion to amend the main motion to include a fine of \$1,500 on each count and require him to take three 3-hour courses in Code of Ethics, Tier 1 of Risk Management and Tier 2 of Risk Management during the year of suspension. The amendment was accepted. The motion passed 6-0. Commissioner Watts abstained.

Chairman Watts asked Vice Chair Nancy Wright to preside over the remainder of the meeting to hear the cases of Formal Complaints 3307 and 3305 and to preside over all of the hearing dispositions.

Alabama Real Estate Commission vs. Gloria G. Hood, Shirley E. Boyd, and S&G Properties LLC, an Unlicensed Company, Formal Complaint No. 3307

Commission Chairman Watts recused himself from the hearing or in any way participating in this case.

Upon discussion of the evidence and testimony presented in the matter of Gloria G. Hood, Salesperson, Ritchie Design and Properties LLC, Birmingham, Alabama, AND Shirley E. Boyd, Associate Broker, Scott Real Estate Investments Ind., d/b/a RE/MAX Advantage Central, Birmingham, Alabama, AND S&G Properties LLC, an unlicensed company, Birmingham, Alabama, and the alleged violations of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-30(1), (2), (3), (4), (7), (8) and (9) by leasing real properties for property owners; Count 2: Section 34-27-36(a)(8)a. in that in their positions as licensed real estate salesperson and associate broker, Respondents Hood and Boyd failed to account for tenants' security deposits coming into the possession of S&G as evidenced by the shortage in the amount(s) of funds that should have been on deposit in the account they used and in their failure to properly

account for at all times money coming into their possession which belonged to others; Count 3: Section 34-27-36(a)(19) via Section 34-27-30(10) in that in their positions as a real estate salesperson and associate broker, Respondents Hood and Boyd held out to the public that S&G was able to perform acts for which a license is required; Count 4: Section 34-27-36(a)(17) in that Respondents Hood and Boyd established an association by employment or otherwise with an unlicensed company, S&G Properties LLC, to circumvent the requirements of the Alabama Real Estate License Law, as amended; the following action was taken.

On Count 1, Commissioner Cummings made a motion to issue a “cease and desist” to S & G Properties. Commissioner Cawthon seconded the motion and it passed 6-0.

On Count 2, Commissioner Cummings made a motion to find Respondents Hood and Boyd guilty and fine each \$2,500. Commissioner Riggins-Allen seconded the motion. After discussion the motion and second were withdrawn. Commissioner Cawthon made a motion to find Respondents Hood and Boyd guilty and revoke their licenses. Commissioner Cummings seconded the motion and it passed 6-0.

On Count 3, Commissioner Cummings made a motion to find Respondents Hood and Boyd guilty. Commissioner Sharp seconded the motion and it passed 6-0.

On Count 4, Commissioner Cummings made a motion to find Respondents Hood and Boyd guilty. Commissioner Sharp seconded the motion and it passed 6-0.

Alabama Real Estate Commission vs. Allen W. Hawkins, III, Formal Complaint No. 3305

Commission Chairman Watts recused himself from the hearing or in any way participating in this case.

Upon discussion of the evidence and testimony presented in the matter of Allen W. Hawkins, III, Inactive Salesperson, Pelham, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(19) by procuring or attempting to procure a lease for real property in violation of the *Code of Alabama* 1975, as amended, Section 34-27-30(8) and (9). (Procuring prospects or properties for the effecting the sale, exchange, lease, or rental of real estate situated within the State of Alabama, and expecting to receive a valuable consideration for this activity without holding an active real estate license); Count 2: Section 34-27-36(a)(19) by holding himself out to be able to perform acts for which a license is required in his website advertising in violation of the *Code of Alabama* 1975, as amended, Section 34-27-30(10), the following action was taken.

On Count 1, Commissioner Cummings made a motion to find Mr. Hawkins guilty and fine him \$1,000. Commissioner Cawthon seconded the motion and it passed 6-0.

On Count 2, Commissioner Cummings made a motion to find Mr. Hawkins guilty and fine him \$500. Commissioner Riggins-Allen seconded the motion and it passed 6-0.

NOT APPEARING ITEMS FOR RULING

Tricia Marie Stearns, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3408

Upon review of the evidence and testimony presented in the matter of Tricia Marie Stearns, Associate Broker, Lake Wedowee Brokers, Wedowee, 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 as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Cawthon made a motion to find her guilty and fine her \$250. Commissioner Wright seconded the motion and it passed unanimously 7-0.

Confirm Next Meeting Date and Location for the Record: May 23, 2013, 9:00 a.m. in Montgomery

Commissioner Cummings made a motion to approve the Commission meeting date and location for May 23, 2013, at 9:00 a.m. in Montgomery, Alabama. Commissioner Harrison seconded the motion and it passed unanimously 7-0.

There being no further business, the meeting adjourned at 3:00 p.m.

Done this 18th day of April 2013.

Nancy Wright, Vice Chairman

Patricia Anderson, Recording Secretary