

MINUTES

A meeting of the Alabama Real Estate Commission was held February 24, 2011, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Sheila Hodges; Vice Chairman Jewel Buford; Commissioners Steve Cawthon, Clif Miller, Jan Morris, Dorothy Riggins-Allen, Danny Sharp, Bill Watts and Nancy Wright; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Deputy Attorney General Charles Sowell; Assistant Attorney General Chris Booth; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly, Phillip Bunch and K.C. Baldwin and Auditor Vickie Shackelford. Tori Adams served as Hearing Officer.

Other staff in attendance were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, Accounting and Personnel Manager Molli Jones, Information Technology Manager Nancy Barfield, Assistant Information Technology Manager Brett Scott and Programmer Analyst Matt Davis.

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

Commissioner Watts made a motion to approve the January minutes as presented. Commissioner Cawthon seconded the motion as it passed unanimously 9-0.

Executive Director Philip Lasater reviewed the January financial statement. He noted receipts and disbursements for January as well as provided an overview of year-to-date expenditures, revenues, budget appropriation and status of investments. The Commission remains under projection on expenditures.

Mr. Lasater advised Commissioners that he attended the Alabama Council of Association Executives (ACAE) legislative meeting the previous week. The attorney from the Ethics Commission distributed the new Ethics Law with explanatory notes. He noted that the changes in the Ethics Law are not limited to lobbyists but now cover employees, all public officials, and citizens of Alabama. As per House Speaker Mike Hubbard and Senate Majority Leader Jabo Waggoner, the Legislature does not plan amendments to it unless asked by the Ethics Commission. Mr. Jim Sumner, Executive Director of the Ethics Commission, noted they would need changes from the Legislature and do not plan to enforce the portions of the law in question until everyone is clear regarding what the law now says.

Responding to a question regarding the deadline for the Statement of Economic Interests, Mr. Lasater stated the deadline is April 30 and it may be submitted online. He also reminded Commissioners about the survey that Examiners sent them as part of our Sunset audit and asked they complete and return it as indicated.

Mr. Adair reported that the Commission is holding an Instructor Training Program here tomorrow. The speaker, Doug Devitre from St. Louis, will conduct a six hour training program titled "Effectively Using Technology" for 39 registered instructors.

Mr. Lasater reminded Commissioners to submit their travel for the ARELLO Mid Year Conference, scheduled for April 4-6 in Sandestin, Florida, if they have plans to attend and have not yet submitted the out of state travel forms.

Commissioner Watts made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in executive session. Commissioner Cawthon seconded the motion and it passed unanimously 9-0 with the following Commissioners voting in favor of the motion: Chairman Sheila Hodges, Vice Chairman Jewel Buford, Steve Cawthon, Clif Miller, Jan Morris, Dorothy Riggins-Allen, Danny Sharp, Bill Watts and Nancy Wright.

HEARINGS AND APPEARINGS

Gerald C. Phillips, Applicant for Approval to Hold a Real Estate License After Previous Revocation, I-13,565

Upon discussion of Mr. Phillips' request for Commission consideration for re-licensure after previous license revocation, Commissioner Buford made a motion to grant his request for re-licensure as a salesperson, to waive completion of another prelicense course, exam and post license course and to require submission of an original salesperson application and appropriate fees plus completion of 15 hours of continuing education including risk management and professional standards prior to licensure. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Joseph P. Long, Qualifying Broker of Payton Realty, Inc., dba RE/MAX of Montgomery; Payton Realty, Inc. dba RE/MAX of Montgomery; Joseph P. Long, Real Estate Instructor; Joseph P. Long, Qualifying Broker of Joseph P. Long, Incorporated; and Joseph P. Long, Incorporated, Formal Complaint No. 3227

Commissioner Riggins-Allen recused herself from participating and voting in this hearing.

Upon discussion of the evidence and testimony presented in Formal Complaint No. 3227, Commissioner Watts made a motion to find all parties listed in Counts 1 – 5 guilty on all Counts. The Commission voted as follows.

Count 1: Joseph P. Long and Payton Realty, Inc. d/b/a RE/MAX of Montgomery in their positions as qualifying broker and company and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)b. by failing to deposit and account for at all times funds belonging to or being held by others in a separate federally insured account in a financial

institution located in Alabama by having a shortage of \$16,828.34 in July 2010, Commissioner Buford made a motion to fine Joseph P. Long and Payton Realty, Inc., d/b/a RE/MAX of Montgomery \$250 each. Commissioner Cawthon seconded the motion and it passed 8-0.

Count 2: Joseph P. Long and Payton Realty, Inc. d/b/a RE/MAX of Montgomery in their positions as qualifying broker and company, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)b. by failing to deposit and account for at all times funds belonging to or being held for others in a separate federally insured account in a financial institution located in Alabama and having a shortage of funds in the amount of \$9,040.00 in December 2010, Commissioner Buford made a motion to fine Mr. Long \$2,500 and reprimand Payton Realty, Inc. d/b/a RE/MAX of Montgomery. Commissioner Miller seconded the motion and it passed 8-0.

Count 3: Joseph P. Long and Payton Realty, Inc., d/b/a RE/MAX of Montgomery in their positions as qualifying broker and company and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. by commingling funds belonging to others with personal funds of Respondent Long by transferring \$10,000 of RE/MAX of Montgomery escrow funds to the RE/MAX of Montgomery company operating account on July 23, 2010, Commissioner Buford made a motion to reprimand Joseph P. Long and Payton Realty, Inc., d/b/a RE/MAX of Montgomery. The motion died for lack of a second. Commissioner Morris made a motion to fine Joseph P. Long and Payton Realty, Inc., d/b/a RE/MAX of Montgomery \$250 each. The motion died for lack of a second. Commissioner Cawthon made a motion to fine Joseph P. Long and Payton Realty, Inc., d/b/a RE/MAX of Montgomery \$1,000 each. Commissioner Sharp seconded the motion and it passed 8-0.

Count 4: Joseph P. Long and Payton Realty, Inc., d/b/a RE/MAX of Montgomery in their positions as qualifying broker and company and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. by commingling funds belonging to others with personal funds of Respondent Long by transferring \$8,500 of RE/MAX of Montgomery's escrow funds to the Joseph P. Long, Inc. account on October 28, 2010, Commissioner Cawthon made a motion to suspend Joseph P. Long's license for sixty (60) days and reprimand Payton Realty, Inc., d/b/a RE/MAX of Montgomery. Commissioner Sharp seconded the motion and it passed 8-0.

Count 5: Joseph P. Long as a real estate instructor and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) via Alabama Real Estate Commission Rule 790-X-1-.17(3) because he was found guilty of violation of the Alabama Real Estate License Law, as amended as set out in Counts 1, 2, 3, and 4, Commissioner Watts made a motion to revoke his instructor's approval. Commissioner Morris seconded the motion and it passed 8-0.

Joann McQuillan Hileman, Applicant for Salesperson’s Temporary License, I-13,571

Upon discussion of Ms. Hileman’s eligibility for licensure, Commissioner Watts made a motion to approve her request. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Brent Cary Gladden, Formal Complaint No. 3215

This hearing was continued at the request of the Respondent.

NOT APPEARING ITEMS FOR RULING

Clarcie Renee White, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3229

Upon review of the evidence and testimony presented in the matter of Clarcie Renee White, inactive temporary salesperson licensee, 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 Ms. White guilty and fine her \$250. Commissioner Miller seconded the motion and it passed unanimously 9-0.

Robert A. Conner, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3226

Upon review of the evidence and testimony presented in the matter of Robert A. Conner, Qualifying Broker, Conner Company, Birmingham, 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 Morris made a motion to find Mr. Conner guilty and fine him \$250. Commissioner Buford seconded the motion and it passed unanimously 9-0.

Harvey Dinkins, Guilty Plea and Waiver of Hearing with Mitigating Circumstances, Formal Complaint No. 3230

Upon review of the evidence and testimony presented in the matter of Harvey Dinkins, Qualifying Broker, Dinkins Realty Charity 1st, 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 Buford made a motion to find Mr. Dinkins guilty and fine him \$250. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Jessica Renee Johnson, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3231

Upon review of the evidence and testimony presented in the matter of Jessica Renee Johnson, Qualifying Broker, Heritage Properties, Inc., Cullman, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failure to comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that Respondent failed to notify the Commission within thirty (30) days of changing the office location, Commissioner Buford made a motion to find Ms. Johnson guilty and fine her \$250. Commissioner Morris seconded the motion and it passed unanimously 9-0.

Valeska Johnson, Applicant for Determination of Eligibility for Licensure, I-13,562

Upon review of the application for determination of license eligibility submitted by Valeska Johnson, Commissioner Morris made a motion to deny Ms. Johnson's request. Commissioner Miller seconded the motion and it passed unanimously 9-0.

Confirm Next Meeting Date and Location for the Record: March 23, 2011, 9:00 a.m. – Montgomery

After discussion of the March meeting date, Commissioner Buford made a motion to change the March meeting from March 23 to March 30 at 9:00 a.m. in Montgomery, Alabama. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

There being no further business, the meeting adjourned at 11:15 a.m.

Done this 24th day of February, 2011.

Sheila Hodges, Chairman

Patricia Anderson, Recording Secretary