

## MINUTES

A meeting of the Alabama Real Estate Commission was held January 25, 2018, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Nancy Wright, Vice Chairman Bill Watts; Commissioners Emmette Barran, Reid Cummings, Cindy Denney, Carole Harrison, Clif Miller, Vaughn Poe and Danny Sharp; Executive Director Patricia Anderson; Assistant General Counsel Mandy Lynn; Investigators David Erfman, K. C. Baldwin, and Rickey Fennie; and Auditor Anthony Brown. The Hearing Officer was Jim Hampton.

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

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.

Commissioner Sharp offered an amendment to the November 30, 2017 minutes to reflect that Accounting and Personnel Director Molli Jones was present at the November 20 meeting. Commissioner Watts made a motion to approve the November 30, 2017 minutes as amended. Commissioner Sharp seconded the motion and it passed 9-0.

Executive Director Patricia Anderson presented the November and December 2017 financial reports. Ms. Anderson reported that Accounting and Personnel Director Molli Jones and she had a productive meeting with Alabama Treasurer Young Boozer to discuss the Commission's investments. Interest on funds have dipped due to the change in bond rates. Revenue is ahead of projections. Original and temporary licenses continued to increase in FY16 and FY17. Expenditures are up mainly due to personnel and personnel benefit costs. Once the state's hiring freeze was lifted, staff members who were eligible received increases in salary. There was also an increase in state employees' insurance premiums.

Ms. Anderson reminded Commissioners about the upcoming Alabama Association of REALTORS® Capitol Conference on February 5-6 and the Alabama Center for Real Estate's Commercial Real Estate Conference and Expo (ACREcom) on February 9. She also informed them that the travel mileage had increased to 54.5 cents per mile.

Assistant Attorney General Mandy Lynn asked Commissioners whether they would prefer to receive copies of all hearing exhibits that are introduced to assist them during deliberations. Commissioners will consider whether this would be beneficial to them and decide at a future meeting. Exhibit copies could possibly be provided on an as-needed basis.

Education Director Ryan Adair provided an update on the status of exam pass rates. The low exam pass rates were the only finding from the Commission's last audit; however,

measures were being taken to address the issue prior to the audit. Considering all of the initiatives the Commission has taken over the past three years to assist instructors in improving their courses and pass rates, the Commission will take the next step in this process. A letter has been mailed to prelicense instructors informing them that the Commission will review schools and instructors beginning in July 2018. If their pass rates are low, the school will be audited and possible action will be taken in the form of a formal complaint.

Strategic planning consultant JDanny Cooper provided an update on the legislative bills that may affect the Commission. There are 43 bills being monitored and many of them concern regulatory boards and commissions. Nine of the bills would significantly affect regulatory boards and commissions.

Ms. Anderson stated that additional work was being done on the Alabama License law revisions to clarify sections that licensees are having the most questions about, including property management. Commissioner Cummings initiated discussion about the increase in the number of continuing education hours, as has been requested by the Alabama Association of REALTORS®. Commissioner Cummings made a motion to increase the number of required continuing education hours from 15 to 18. Commissioner Denney seconded the motion and it passed unanimously 9-0. The change to CE hours will be included in the legislative bill.

Chairman Wright called for an Executive Session at 12:43 p.m. for 10 minutes to allow Commissioners to receive advice from Assistant General Counsel Mandy Lynn. Commissioner Watts made a motion that Commissioners go into an executive session for 10 minutes to receive advice from counsel. Commissioner Poe seconded the motion and it passed unanimously 9-0 with Commissioners voting as follows: Chairman Wright (Yes), Vice Chairman Watts (Yes), Commissioner Harrison (Yes), Commissioner Cummings (Yes), Commissioner Sharp (Yes), Commissioner Miller (Yes), Commissioner Poe (Yes), Commissioner Barran (Yes) and Commissioner Denney (Yes). The executive session ended at 12:53 p.m. and the open meeting resumed with Chairman Wright, Vice Chairman Watts and Commissioners Harrison, Cummings, Sharp, Miller, Poe, Barran and Denney present. No vote was taken in executive session.

Ms. Lynn provided an update on cases that are on appeal and those whose appeal time has concluded. Commissioner Denney requested that Commissioners continue to receive updates on cases that are on appeal.

Commissioner Watts made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Miller seconded the motion and it passed unanimously 9-0.

## HEARINGS

### **Hunter Scott Fountain, Request for Six-Month Extension to Take and Pass the Salesperson License Examination, Investigative File I-15,203**

Upon discussion of evidence and testimony presented by Mr. Fountain regarding his request for a six-month extension to take and pass the salesperson license examination,

Commissioner Harrison made a motion to grant his request. Commissioner Barran seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. Patricia D. Snell and Century 21 Patty Snell and Associates, Formal Complaint No. 3428**

Patricia D. Snell, Qualifying Broker, and Century 21 Patty Snell and Associates, Tuscaloosa, Alabama, were charged on Count 1 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36 (a)(8)b. for failing to deposit and account for at all times 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 a shortage of funds in the trust account. Ms. Snell was charged on Count 2, with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(29) for failing within a reasonable time to provide information requested by the Commission during an investigation or after a formal complaint had been filed and on Count 3 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)a. for failing, within a reasonable time, to properly account for or remit money coming into her possession which belongs to others, or commingling money belonging to others with her own funds.

Commissioner Watts made a motion to find Ms. Snell and Century 21 Patty Snell guilty on Count 1 and Ms. Snell guilty on Counts 2 and 3. Commissioner Cummings seconded the motion and it passed unanimously 9-0. Commissioner Poe made a motion to revoke the licenses of Ms. Snell and Century 21 Patty Snell and Associates on all counts. Commissioner Sharp seconded the motion and it passed 5-3-1 with Commissioners Barran, Cummings and Sharp voting against the motion and Commissioner Denney abstaining.

**Alabama Real Estate Commission vs. James E. Mitchell, Jr., Formal Complaint No. 3440**

James E. Mitchell, Jr., Qualifying Broker, Mid States Auction Company, Leesburg, Alabama, was charged on Count 1 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) for failing to comply with Section 34-27-31(j) by failing to notify the Commission of the institution of criminal charges against him and charged on Count 2 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) for failing to comply with Section 34-27-31(k) in that he did not notify the Commission of the criminal verdict against him.

Commissioner Cummings made a motion to find Mr. Mitchell guilty on both counts and fine him \$250 per count, a total of \$500. Commissioner Miller seconded the motion and it passed 8-1 with Commissioner Watts voting against the motion.

**Booker Borden, Application for Temporary Salesperson License, Investigative File I-15,199**

Upon discussion of the evidence and testimony presented by Mr. Borden regarding his application for a temporary salesperson license, Commissioner Denney made a motion to deny his application. Commissioner Cummings seconded the motion and it passed unanimously 9-0.

**Thomas Gardner Green, IV, Hardship Request to Renew Lapsed Broker License, Investigative File I-15,204**

Hearing Officer Jim Hampton offered to recuse himself. Mr. Green expressed that he did not have a problem with Mr. Hampton serving as the hearing officer in his case.

Upon discussion of the evidence and testimony presented by Mr. Green regarding his hardship request to renew his lapsed broker license, Commissioner Cummings made a motion to approve his request. Commissioner Poe seconded the motion and it passed 8-1 with Commissioner Harrison voting against the motion.

**Marcus Connell Smith, Jr., Request for Review of Qualifications to Obtain a Broker License, Investigative File I-15,209**

Upon discussion of the evidence and testimony presented by Mr. Smith regarding his request to obtain a broker license, despite not holding an active salesperson license within the last 24 out of 36 months as prescribed by Alabama license law, Commissioner Cummings made a motion to deny his request. Commissioner Sharp seconded the motion and it passed unanimously 9-0.

**Dennis Scott Norton and Rocket City Property Management Services, Request for Rehearing, Formal Complaint No. 3434**

Commissioner Watts recused himself.

Mr. Norton was not present and his attorney, Gary Wolfe, addressed Commissioners on his behalf regarding Mr. Norton's request for a rehearing or modification of the Commission's order from Mr. Norton's hearing on November 30, 2017. Commissioner Barran made a motion to grant a rehearing. Commissioner Harrison seconded the motion and it passed 8-0.

**NOT APPEARINGS**

**Ryleigh Freeman, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3441**

Ryleigh Freeman, Salesperson, ERA King Real Estate, Anniston, Alabama, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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 Sharp made a motion to find her guilty and fine her \$500. Commissioner Miller seconded the motion and it passed unanimously 9-0.

**Kawanga Charise (Kay) Little, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3433**

Kawanga Charise (Kay) Little, Salesperson, Garth Realty Group Inc., Montgomery, Alabama, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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 Harrison made a motion to find her guilty and fine her \$500. Commissioner Barran seconded the motion and it passed unanimously 9-0.

**Towana J. McElroy, Request for Home Operation, Investigative File I-15,214**

Upon review of the evidence presented regarding Ms. McElroy's request for home operation, Commissioner Harrison made a motion to approve her request. Commissioner Miller seconded the motion and it passed 7-2 with Commissioners Denney and Poe voting against the motion.

**Confirm March Meeting Date and Location for the Record:** March 22, 2018, 9:00 a.m. in Cullman, Alabama

Commissioner Watts made a motion to approve the March meeting for March 22, 2018 at 9:00 a.m. in Cullman, Alabama. Commissioner Harrison seconded the motion and it passed unanimously 9-0.

**Next Commission Meeting:** February 22, 2018, 9:00 a.m. in Montgomery

There being no further business, the meeting adjourned at 1:20 p.m.

Done this 25<sup>th</sup> day of January 2018.

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Nancy Wright, Chairman

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Lori Moneyham, Recording Secretary