

## MINUTES

The Alabama Real Estate Commission met July 24, 2009 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Sheila Hodges; Vice-Chair Jewel Buford; Commissioners Steve Cawthon, Bobby Hewes, Clif Miller, Jan Morris, Dorothy Riggins-Allen, 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; Investigators David Erfman, Chuck Kelly, Phillip Bunch; and Auditors Anthony Brown and Denise Blevins. Hearing Officer was Tori Adams.

Other staff members present were Public Information Manager Vernita Oliver-Lane, Public Information Specialist, Lori Moneyham, Senior Accountant Molli Jones, Education Specialist Pam Oates, Information Technology Manager Nancy Barfield and Assistant Information Technology Manager Brett Scott.

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

Commissioner Watts moved to approve the June 19, 2009 minutes as presented. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Mr. Lasater reviewed the June financial report noting that trends over the last several months have remained constant. Explanation was made of the source of the funds for transfer to the Alabama Center for Real Estate at the University of Alabama.

Mr. Lasater reported to Commissioners that he had signed the requisition to acquire laptops that can be used by them in Commission meetings. We have also developed the packets in electronic format for the Commissioner web site and those have been reproduced and provided to Commissioners in notebooks for use during the meeting. There was further discussion regarding options for how laptops and notebooks may be formatted and used in the future.

Mr. Lasater reported that three Commission members attended Commissioner College at the ARELLO District meeting recently held in Louisville, Kentucky. He also reported that Assistant Executive Director, Pat Anderson, was nominated out of the Southern District as a director for the ARELLO Board of Directors. The election will take place at the ARELLO annual meeting to be held later this year in Miami.

There was discussion regarding the Examiners of Public Accounts finding about list requests. Mr. Lasater shared a comprehensive report including an Attorney General's opinion dated June 8, 1998 that states governmental agencies can charge the cost to produce records regardless of records being digital or hard copy. The lists AREC provides are made available as a service and we were comfortable incurring the extra programming costs because we could recover those costs. The Examiners have not accepted our method of determining cost recovery.

Commissioners expressed appreciation to Mr. Lasater for providing this information. They will review it to determine what action is necessary to resolve the finding.

Mr. Lasater presented the proposed 2010 calendar. Mr. Watts made a motion to adopt the calendar as tentative. Commissioner Buford seconded the motion and it passed unanimously 9-0.

Commissioner Morris gave a report from Commissioner College and the ARELLO District Conference. She said both were informative and was appreciative to staff for placing the state reports online since those attending Commissioner College had to miss those presentations. Commissioner Morris also shared a variety of information presented at the conference.

Chairman Hodges opened the public hearing and called for any comments on published Rules 790-X-1-.06, 790-X-1-.10, 790-X-1-.11, 790-X-1-.12, 790-X-1-.15, 790-X-1-.16, 790-X-1-.17, 790-X-1-.18, 790-X-1-.21 and 790-X-2-.02. Hearing none from the public she called on Education Director Ryan Adair to present any changes made since the June meeting. Mr. Adair noted that no written comments have been received to this point. He then explained the proposed changes to several rules as a result of Commissioner input in June and also answered Commissioner's questions. Commissioners will study these further in anticipation of adoption in August.

Commissioners reviewed a fee schedule prepared by staff at their request. They offered helpful comments for changes to enhance clarity of the document. It will be posted online and distributed to instructors for use in their classes.

Commissioner Morris made a motion to conduct its disciplinary hearing disposition discussions in open session. The motion was seconded by Commissioner Wright and it passed unanimously 9-0.

## HEARINGS AND APPEARINGS

### **Willie Davis, Applicant for Determination of Eligibility to be Licensed After Previous Revocation, I-13, 115**

Upon discussion of Mr. Davis' eligibility for licensure after previous revocation of his license, Commissioner Cawthon made a motion to approve his request for licensure upon meeting all requirements. Commissioner Morris seconded the motion and it passed unanimously 9-0.

### **Alabama Real Estate Commission vs. Dana R. Dyer, Formal Complaint No. 3148**

The matter of Dana R. Dyer, Inactive Salesperson, Dothan, Alabama, was not heard and will be rescheduled since service within the required fifteen day time period was not accomplished.

**Alabama Real Estate Commission vs. Greg Urbanski, Formal Complaint No. 3141**

Upon discussion of the evidence and testimony presented in the matter of Greg Urbanski, Inactive Salesperson, Mobile, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(4) by making false promises which could influence, persuade or induce Mr. Nicholson to list his property with Respondent who promised that property would be placed in local multiple listing system; Count 2: Section 34-27-36(a)(14) by accepting a commission or other valuable consideration for performing an act for which an active license is required; Count 3: Section 34-27-36(a)(10) by failing to furnish a copy of each listing, contract, lease and other document to each party with reasonable promptness; Commissioner Watts made a motion to find Mr. Urbanski guilty on all three counts, revoke his license and fine him \$1,000 on each count. Commissioner Morris seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. G.B. Miller and Fort Morgan Realty, Inc., Formal Complaint No. 3142**

Upon discussion of the evidence and testimony presented in the matter of G.B. Miller, Qualifying Broker, Fort Morgan Realty, Inc., Gulf Shores, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing, within a reasonable time, to deposit and account for funds belonging to others in a separate federally insured account or accounts located in Alabama, and by failing to properly account for at all times, all funds coming into their possession that belong to others, Commissioner Watts made a motion to find both Mr. Miller and Fort Morgan Realty, Inc. guilty. Commissioner Wright seconded the motion and it passed unanimously 9-0. Commissioner Wright made a motion to fine each entity \$1,000. Commissioner Morris seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. Cynthia W. Morgan and Lakefront Property Management LLC, Formal Complaint No. 3150**

Upon discussion of the evidence and testimony presented in the matter of Cynthia W. Morgan, Qualifying Broker, and Lakefront Property Management, LLC, Dadeville, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. by failing within a reasonable time to properly remit money coming into her possession which belongs to others, or commingling money belonging to others with his or her own funds and by failing to deposit and account for at all times all funds belonging to or being held by others. In addition to commingling of funds, Respondents violated Section 34-27-36(a)(19) by violating Administrative Rule 790-X-3-.03(5) which requires that each qualifying broker shall promptly disburse to the appropriate party or parties trust funds within seven days of the consummation of the transaction for which the funds were deposited; Count 2: Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. by failing, within a reasonable time, to properly account for or remit money coming into his or her possession which belongs to others, or commingling money belonging to or being held for others with his or her own funds and by 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 a shortage in the trust account, Commissioner Wright made a motion to find Ms. Morgan and Lakefront Property Management, LLC guilty and to fine each \$1,000 each on Count 1 and \$1,000 each on Count 2. Commissioner Watts seconded the motion and it passed unanimously 9-0.

**Polly Ann Trotter, Applicant for Real Estate Salesperson Reciprocal License, I-13,129**

Upon discussion of the Ms. Trotter's felony criminal conviction and license application submitted by Ms. Trotter, Commissioner Buford made a motion to approve Ms. Trotter's reciprocal salesperson application. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

**Ryan David Cade, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3152**

Upon review of the evidence and testimony presented in the matter of Ryan David Cade, Salesperson, 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 Hewes made a motion to find Mr. Cade guilty and fine him \$250. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

**John Allen Jones, IV, Surrender of License, I-13,085**

Upon review of the affidavit of license surrender submitted by Mr. Jones, Commissioner Buford made a motion to accept the surrender of Mr. Jones' license. Commissioner Morris seconded the motion and it passed unanimously 9-0.

**Clifton Holt, Request for Extension to File Application for Original Salesperson License, I-13,137**

Upon review of Mr. Holt's request for an extension to apply for the original salesperson license, Commissioner Morris made a motion to deny the request. The motion was seconded by Commissioner Miller and it passed unanimously 9-0.

**Marcus Mitchell, Request for Extension to Take the Salesperson Examination, I-13,138**

Upon review of the request by Mr. Mitchell for extended time to take the salesperson examination, Commissioner Morris made a motion to deny the request. The motion was seconded by Commissioner Wright and it passed unanimously 9-0.

**Catherine Bice, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3094**

Upon review of the evidence and testimony presented in the matter of Catherine Bice, Qualifying Broker, Magnolia Holdings d/b/a Century 21 Home Team, 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 Alabama Real Estate Commission Rule 790-X-3-.01 in that she failed to

notify the Commission in writing within 30 days of having moved her place of business, Commissioner Morris made a motion to find Ms. Bice guilty and fine her \$250. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

**Paul Register, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3145**

Upon review of the evidence and testimony presented in the matter of Paul Register, Qualifying Broker, Southern Property Group, LLC, Montgomery, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that Respondent failed to notify the Commission in writing within 30 days of having moved his place of business, Commissioner Watts made a motion to find Mr. Register guilty and fine him \$250. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

**Shermonica Bell, Request for Additional 30 Days to Have Original Salesperson License Issued, I-13,150**

Upon review of Ms. Bell's request for additional time to apply for the original salesperson license, Commissioner Watts made a motion to grant her request for a 30 day extension. The motion was seconded by Commissioner Cawthon and it passed 8-1 with Commissioner Buford voting no.

**Confirm August 14, 2009 Meeting Date and Location for the Record**

Commissioner Watts made a motion to confirm that the next Commission meeting will be held on August 14, 2009 at 9:00 a.m. at 1201 Carmichael Way, Montgomery, Alabama. Commissioner Morris seconded the motion and it passed unanimously 9-0.

There being no further business, the meeting adjourned at 1:45 p.m.

Done this 24<sup>th</sup> day of July, 2009.

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Sheila Hodges, Chairman

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Patricia Anderson, Recording Secretary