

MINUTES

The Alabama Real Estate Commission met March 11, 2005, at the Homewood Public Library, 1721 Oxmoor Road, Homewood, Alabama.

Chairman Poole called the meeting to order at 9:00 a.m.

Those present were Chairman Bill Poole; Vice Chairman Gordon Henderson; Commissioners Roy Bragg, Jewel Buford, Thomas Hays, Bobby Hewes, Sheila Hodges, Lyman Lovejoy and Chester Mallory; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Special Investigators David Erfman and Chuck Kelly and Hearing Officer Tori Adams-Burk.

Commissioner Lovejoy introduced Bryan and Chad Camp and Angie Perry of the St. Clair County Board of Realtors. Chairman Poole reiterated a welcome from the Commission and commended their interest in observation.

Financial Review: January statements were mailed in packets received prior to the meeting and the February statement was provided in the supplemental packet upon arrival. The continued upswing in examinations fuels the increase over projection for applications and transfers. A review of areas where projected expenditures will take place later in the year were noted. There was no action taken.

The Executive Director's report by D. Philip Lasater included a Legislative update on HB 163 and HB 156. Both having passed the House are expecting Senate committee reports with calendar activity to follow. The upcoming mid year ARELLO meeting was reviewed and information related to proposed changes to governing documents was disseminated. The IRS allowance for mileage has increased to .405 per mile and was reported to Commissioners.

Chairman Poole led in the discussion about the Real Estate Commission's participation in the AAR Summer Splash and the regular meeting to be held on June 20 in Orange Beach at 8:00 AM. In order to increase the comfort level for licensee attendees, Mr. Poole encouraged Commissioners to feel free to dress appropriately casual for the meeting setting. It was also confirmed that the April meeting would be in Madison County at the Huntsville Association of Realtors.

Commissioner Henderson inquired as to the status of Wal-Mart Realty's response to the Commission review of their mode of operation and as to whether they need to be licensed in the State of Alabama. General Counsel Charles Sowell reported not having heard from our follow up reply to their initial response.

Hearing Officer Tori Adams-Burk shared with Commissioners certain provisions of legislation known as the Open Meetings Act. She reported compliance would become effective beginning October 1, 2005. More details were to follow upon receiving the Act.

Hearings and Appearings

Alabama Real Estate Commission vs. William T. Harrison, Jr., Formal Complaint No. 2813

Upon discussion of the evidence and testimony presented in the matter of William T. Harrison, Jr., Salesperson, Realty Now, Inc., 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 moved that Mr. Harrison could not renew until Formal Complaint No. 2813 has been heard. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

Carmen Bake Crutcher, Applicant for Determination of Eligibility to be Licensed, I-11,569

Hearing to be continued in April due to Ms. Crutcher being ill.

Alabama Real Estate Commission vs. Nicholas R. Noffsinger, Formal Complaint No. 2838

Upon discussion of the evidence and testimony presented in the matter of Nicholas R. Noffsinger, Inactive Temporary Salesperson, and the violation of the Code of Alabama 1975, as amended, Section 34-27-35(a)(19), by disregarding the ORDER of the Commission to pay a fine within 30 days of having received order, Commissioner Henderson moved to revoke the license of Mr. Noffsinger. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

Jerry Murphy, Jr., Denied Applicant for Determination of Eligibility to be Licensed, I-11,487

Upon discussion of Mr. Murphy's second request for approval of eligibility to be licensed, Commissioner Hays moved to approve the license eligibility of Mr. Murphy. Commissioner Mallory seconded the motion and it failed 4-5 with Commissioners Lovejoy, Bragg, Henderson, Buford and Poole voting no.

Alabama Real Estate Commission vs. Karen Elaine Glidewell, Formal Complaint No. 2859

Hearing continued until next Commission meeting.

Commissioner Hays was excused and participated in no further votes.

LaChondria Crockett, Applicant for Determination of Licensing Eligibility, I-11,408

Upon discussion of Ms. Crockett's application for determination of licensing eligibility, Commissioner Hodges moved to deny the license eligibility of Ms. Crockett. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Glenda A. Vaughn, Formal Complaint Nos. 2846 and 2854

Upon discussion of the evidence and testimony presented in the matter of Glenda A. Vaughn, Inactive Salesperson, Crane Hill, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to comply with the Code of Alabama 1975, as amended, Section 34-27-31(j) by failing to notify the Commission within ten days of criminal prosecutions against her; Count 2: Section 34-27-36(a)(19) by failing to comply with the Code of Alabama 1975, as amended, Section 34-27-31(k) by failing to notify the Commission within ten days of a criminal verdict being rendered against her; Count 3: Section 34-27-35(a)(23)a. by having been convicted of a crime involving moral turpitude, Commissioner Hodges moved to find Ms. Vaughn guilty of allegations contained in Formal Complaint No. 2846 and to reprimand her. Commissioner Henderson seconded the motion and it passed unanimously 8-0. Commissioner Hodges moved to find Ms. Vaughn guilty of allegations contained in Formal Complaint No. 2854 and to revoke her license. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Leigh R. Campbell, Formal Complaint No. 2851

Upon discussion of the evidence and testimony presented in the matter of Leigh R. Campbell, Salesperson, Realty Place LLC, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by canceling the on-line credit card payment for Respondent's real estate renewal fee and by having Respondent's license issued without paying the required fees violating the Code of Alabama 1975, as amended, Section 34-27-35(b)(2), Commissioner Hewes moved to find Ms. Campbell

guilty and to reprimand her. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Charles W. Russ, Jr., Formal Complaint No. 2840

Upon discussion of the evidence and testimony presented in the matter of Charles W. Russ, Jr., Associate Broker, South O' Town Realty Co., Inc., d/b/a The Prudential South O' Town Realty, 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 Hodges moved to dismiss Formal Complaint No. 2840. Commissioner Bragg seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Jessica Escott, Formal Complaint No. 2841

Upon discussion of the evidence and testimony presented in the matter of Jessica Escott, Salesperson, Century 21 Alliance Group, Trussville Branch, 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 Hodges moved to find Ms. Escott guilty and to fine her \$250. Commissioner Henderson seconded the motion and it passed 7-0 with Commissioner Mallory abstaining.

Alabama Real Estate Commission vs. Shandi W. Nickell, Formal Complaint No. 2844

Upon discussion of the evidence and testimony presented in the matter of Shandi W. Nickell, Salesperson, Latham Real Estate and Investment LLC, d/b/a RE/MAX First Choice, Pelham, 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 Mallory moved to dismiss Formal Complaint # 2844. Commissioner Hewes seconded the motion and it passed 7-1 with Commissioner Buford voting no.

Alabama Real Estate Commission vs. Jesse W. Shotts, Formal Complaint No. 2426

Continued until next Jefferson County hearing date and the formal complaint is restyled.

Alabama Real Estate Commission vs. Odell White, Jr., Formal Complaint No. 2832

Upon discussion of the evidence and testimony presented in the matter of Odell White, Jr., White and Associates Realty, Inc., Birmingham, 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 belonged to others, Commissioner Hodges moved to find Mr. White guilty. Commissioner Buford seconded the motion and it passed unanimously 8-0. Commissioner Henderson moved to fine Mr. White \$1000 and that he immediately provide evidence that the account has been made whole and that Commission staff be directed to conduct a follow up audit within 60 days. Commissioner Bragg seconded the motion and it passed unanimously 8-0.

Not Appearings

Alabama Real Estate Commission vs. Marsha R. Slyman, Formal Complaint No. 2857

Upon discussion of the evidence and testimony presented in the matter of Marsha R. Slyman, Qualifying Broker, Slyman Investment Group LTD d/b/a Providence Properties, Huntsville, 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 moved the company to a new address and failed to notify the Commission within thirty (30) days of changing office locations, Commissioner Hodges moved to find Ms. Slyman guilty and to fine her \$250. Commissioner Hays seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Barbara F. Harrison, Formal Complaint No. 2858, Approval of Guilty Plea and Pre-Approved Fine

Upon discussion of the evidence and testimony presented in the matter of Barbara F. Harrison, Qualifying Broker, Harrison Realty, Luverne, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.04(1), (2) and (3) in Respondent's failure to furnish to buyers and sellers, in single family residential transactions, an estimated closing statement at the time offers were presented; Count 2: Section 34-27-35(a)(19) by failing to comply with the Code of Alabama 1975, as amended, Section 34-27-82(g) and Alabama Real Estate Commission Rule 790-X-3-.13, in failing to use and provide to buyers and sellers the mandatory real estate brokerage services disclosure forms; Count 3: Section 34-27-36(a)(19) by failing

to comply with the Code of Alabama 1975, as amended, Section 34-27-8(c), in that Respondent's purchase agreement form did not have the required "AGENCY DISCLOSURE" clause with the appropriate blocks to be checked on all offers prepared after August 1, 1998, Commissioner Hodges moved to accept agreement to proposed settlement for Barbara Harrison which consisted of a \$200 fine per count totaling \$600. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. Susan M. Horton, Formal Complaint No. 2855

Upon discussion and evidence presented in the matter of Susan M. Horton, Inactive Associate Broker, Niceville, Florida, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by canceling the on-line credit card payment for her license renewal fee and by having her license issued without paying the required fees in violation of the Code of Alabama 1975, as amended, Section 34-27-35(c)(2), Commissioner Henderson moved to find Ms. Horton guilty and to fine her \$250. Commissioner Hewes seconded the motion and it passed 8-1 with Commissioner Hays voting no.

William D. East, Bill East Realty, Inc., Request for Home Operation Hardship, I-11,585

Upon discussion of Mr. East's hardship request for home operation, Commissioner Henderson moved to approve the hardship request of Mr. East. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

Mae Marvin, Marvelous Homes LLC, Request for Home Operation Hardship, I-11,586

Upon discussion of Ms. Marvin's hardship request for home operation, Commissioner Mallory moved to approve the hardship home operation request of Ms. Marvin. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

There being no further business the Commission adjourned at 3:40 p.m.

Done this 11th day of March, 2005.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary