

## MINUTES

The Alabama Real Estate Commission met March 11, 2009, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Vice-Chairman Jewel Buford; Commissioners Dorothy Riggins-Allen, Steve Cawthon, Bobby Hewes, Clif Miller, Jan Morris, 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 K.C. Baldwin. Hearing Officer was Tori Adams. Commission Chairman Sheila Hodges was absent with notice.

Other staff members present were Public Information Manager Vernita Oliver-Lane, Public Information Specialist, Lori Moneyham, Education Specialists Pam Oates and Julie Norris, Senior Accountant Molli Jones, 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 Vice-Chairman Jewel Buford.

Commissioner Riggins-Allen moved to approve the February 11, 2009 minutes as presented. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Executive Director Philip Lasater presented an overview of the February 2009 financial statement calling specific attention to and highlighting the newly revised format. He thanked Senior Accountant Molli Jones for her work in developing this revised format that allows for the viewing of cash available, receipts and deposits for the current period, disbursements, and a summary of renewals collected and deposited on investment in relation to year to date and prior fiscal year. It provides a more succinct snapshot of revenue/expenditures and fund balances allowing a more ready analysis of budget status and trends. Attention was directed to the February 2009 comparative report of current and prior year revenue/expenditures and funds totals. Even though issuance of temporary and original licenses has decreased the Commission is not negatively impacted because there is adequate flow from renewals to support the budget. Expenditures are under projections and the budget remains healthy.

Mr. Lasater gave a legislative summary update. SB 23 has passed the Senate, had its first reading in the House and is in Boards and Commissions committee. HB 89 has passed the House, had its first reading in the Senate and is waiting to come out of Governmental Affairs. HB 428 concerning licensing of schools and instructors has passed the House and will shortly receive its committee assignment in the Senate. Mr. Lasater cited other bills in which the Commission has an interest. SB 138 and its companion HB 704 will allow the University of Alabama to conduct business via non face to face meeting formats provided its meetings are properly noticed. This could impact how Boards and Commission are able to conduct business pursuant to a change to the Open Meetings Act. SB 443, which will give CJIC (Alabama Criminal Justice Information Center) authority to allow Boards and Commissions to subscribe to their electronic criminal background search, was introduced today in Senate Judiciary Committee by Senator Smitherman. HB 663 sponsored by Representative Hammons and others is of concern because it would prohibit Boards and Commissions from licensing or renewing anyone without proof of legal presence. Besides lack of clarity on acceptable documentation for legal presence, this is also of concern because hard copy documentation would have to be provided by licensees at renewal time. We would have to assess how that would impact our online renewal process.

Commissioner Morris reported the Community Association Task Force that includes Commissioners Watts and Cawthon had a productive meeting on March 10, 2009. The task force is trying to focus on something attainable which will likely be those things involved with the financing aspect. The task force has drafted language to define community association and community association manager. The task force is identifying the issues and who may need to be licensed. Commissioner Morris reiterated how likely the development will be complicated and time consuming. The task force will continue its work.

Commissioners recognized and commended Staff Accountant Hattie Thomas for a successful property audit as acknowledged by State Auditor Samantha Shaw.

Commissioners expressed a preference for Commissioner name tags to be magnetic and that they say "Real Estate Commissioner" instead of just "Commissioner". Commissioner Cawthon inquired about the status of the badges. Vernita Oliver-Lane shared that a purchase order was sent to the company around February 1 and they should arrive by the April meeting.

Mr. Lasater and Commissioners welcomed instructor Glenn Henry and former Commissioner and Chair Leon Crawford. Mr. Lasater expressed appreciation to Mr. Henry for making contacts with legislators and expressing interest in passage of HB 428.

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 8-0.

## HEARINGS AND APPEARINGS

### **Alabama Real Estate Commission vs. Linda Lifer, Formal Complaint No. 3122**

Upon discussion of the evidence and testimony presented in the matter of Linda Lifer, Qualifying Broker, Linda Lifer Real Estate, Huntsville, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(23)a. by entering a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or a crime involving moral turpitude, Commissioner Watts made a motion to find Ms. Lifer guilty. Commissioner Morris seconded the motion and it passed unanimously 8-0. As provided by Administrative Procedure, Mr. Lasater then shared disciplinary action taken by the Commission on May 13, 2004 for License Law violations. Commissioner Morris made a motion to revoke Ms. Lifer's license. Commissioner Riggins-Allen seconded the motion and it passed 6-1 with Commissioner Hewes voting no. Commissioner Cawthon recused himself prior to the beginning of the hearing.

### **Victoria G. Lindsey, Hardship Application to Obtain an Original Salesperson's License After Temporary Salesperson's License Lapsed, I-12,968**

Upon discussion of Ms. Lindsey's request that the Commission consider her hardship for late application of an original salesperson's license, Commissioner Watts made a motion to grant Ms. Lindsey a 60 day extension to submit her original salesperson's application. Commissioner Morris seconded the motion and it passed unanimously 8-0.

### **Jerome A. Owes, Application for Determination of Licensing Eligibility, I-12,962**

A hearing was held in the absence of Mr. Owes. Upon discussion of Mr. Owe's eligibility for licensure, Commissioner Morris made a motion to deny Mr. Owes application. Commissioner Watts seconded the motion and it passed unanimously 8-0.

### **Alabama Real Estate Commission vs. Michael W. Madison, Formal Complaint No. 3129**

The case concerning Formal Complaint 3129 in the matter of Michael W. Madison was continued.

### **Alabama Real Estate Commission vs. Yvonne Summer Schram, Formal Complaint No. 3130**

Upon discussion of the evidence and testimony presented in the matter of Yvonne Summer Schram, Y E S Realty, LLC, Madison, 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 within thirty days of having changed her business address, Commissioner Morris made a motion to find

Ms. Schram guilty and fine her \$250. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Mary A. Leo, Laura R. Smith, and Leo Property Management, Formal Complaint No. 3131**

Upon discussion of the evidence and testimony presented in the matter of Mary A. Leo, Owner of Leo Property Management, Huntsville, Alabama and Associate Broker at Ben Porter Real Estate of Huntsville, Inc., d/b/a Ben Porter Real Estate, Huntsville, Alabama; Laura R. Smith, Qualifying Broker, Leo Property Management and Leo Property Management and the alleged violation of the Code of Alabama 1975, as amended, Count 1: 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 and Count 2: Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.03(1) in not being an authorized person on the trust account in question, Commissioner Watts made a motion to find Mary Leo, Laura Smith and Leo Property Management guilty on Count 1 and Ms. Smith guilty on Count 2. Commissioner Cawthon seconded the motion and it passed unanimously 8-0. As provided by Administrative Procedure, Mr. Lasater then shared disciplinary action taken by the Commission against Mary Leo on March 18, 1996 for License Law violations. Commissioner Cawthon made a motion to revoke the broker's license of Mary A. Leo and to revoke the license of Leo Property Management in addition to fining the company \$2500. Additionally, Commissioner Cawthon moved that the real estate broker's license held by Ms. Smith be cancelled and in its place that she be issued a salesperson's license. Commissioner Morris seconded the motion and it passed unanimously 8-0.

**Parker Coleman Kennedy, Application for Extension to Issue Original Salesperson's License, I-12,993**

Upon discussion of Mr. Kennedy's request to be allowed to submit late application for the original salesperson's license, Commissioner Morris made a motion to grant Mr. Kennedy a 30 day extension to have his original salesperson's license issued. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**Peter William Owen, Applicant for Temporary Salesperson's License, I-12,999**

Upon consideration of the testimony presented by Mr. Owen regarding application for a temporary salesperson's license, Commissioner Cawthon made a motion to approve Mr. Owen's request for issuance of his temporary salesperson's license. Commissioner Morris seconded the motion and it passed unanimously 8-0.

**Robert Malone Hays, Request to Renew Lapsed Real Estate Salesperson's License Under Hardship, I-13,000**

Upon discussion of the testimony presented by Mr. Hays regarding his request for a hardship renewal of his lapsed license, Commissioner Watts made a motion to approve Mr. Hays' request. Commissioner Hewes seconded the motion and it passed 7-1 with Commissioner Cawthon voting no.

NOT APPEARING ITEMS FOR DISCUSSION

**Greg Urbanski, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3023**

Upon review of the evidence and testimony presented in the matter of Greg Urbanski, Salesperson, Urbanski Realty of Alabama, Mobile, 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 Mr. Urbanski guilty and fine him \$250. Commissioner Watts seconded the motion and it passed unanimously 8-0.

**Louise R. Nixon , Waiver of Hearing and Guilty Plea, Formal Complaint No. 3127**

Upon review of the evidence and testimony presented in the matter of Louise R. Nixon, Salesperson, Rose Anne Erickson Realty, LLC, Columbus, Georgia, 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 dismiss the charges. Commissioner Watts seconded the motion and it passed unanimously 8-0.

**William Dunnam, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3232**

Upon review of the evidence and testimony presented in the matter of William Dunnam, Temporary Salesperson, Tuscaloosa, 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. Dunnam guilty and fine him \$250. Commissioner Morris seconded the motion and it passed unanimously 8-0.

**Allison R. Sanders, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3132**

Upon review of the evidence and testimony presented in the matter of Allison R. Sanders, 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 Wright made a motion to find Ms. Sanders guilty and fine her \$250. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**Anita Dawkins, Request for Second Extension to Take Alabama Salesperson's Examination, I-12,919**

Upon review of Ms. Dawkins' second request for extension to take and pass the salesperson's examination, Commissioner Morris made a motion to grant Ms. Dawkins a 60 day extension to take the salesperson's examination. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

**Laurinia Parker, Request for Six-Month Extension to Complete the 60-Hour Salesperson's Prelicense Course, I-13,009**

Upon review of Ms. Parker's request for a six month extension to take and pass the salesperson's exam, Commissioner Morris made a motion to deny the request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**Katie R. Jones, Request for Extension to File Application for Original Salesperson's License, I-13,010**

Upon review of Ms. Jones' request for an extension to apply for an original salesperson's license, Commissioner Cawthon made a motion to grant Ms. Jones a 30 day extension. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

**Brittaney Gooch, Request for Extension to File Application for Original Salesperson's License, I-13,011**

Upon review of Ms. Gooch's request for an extension to apply for an original salesperson's license, Commissioner Riggings-Allen made a motion to grant Ms. Gooch a 30 day extension. Commissioner Miller seconded the motion and it passed unanimously 8-0.

**Monica Hatcher, Request for Extension to Complete the Post License Course and File Application for Original Salesperson's License, I-13,016**

Upon review of Ms. Hatcher's request for an extension to complete the post-license course and apply for an original salesperson's license, Commissioner Wright made a motion to

grant Ms. Hatcher's request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**John D. Fetz, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3119**

Upon review of the evidence and testimony submitted by Mr. Fetz regarding dismissal of Formal Complaint No. 3119, Commissioner Morris made a motion to find Mr. Fetz guilty and fine him \$250. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

**Agnes Stergion-Willis, Surrender of License, Formal Complaint No. 3108**

Upon review and consideration of Ms. Stergion-Willis' affidavit requesting the Commission accept the surrender of her license, Commissioner Watts made a motion to accept the surrender. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

**Robert F. Godard and Compass Real Estate Group, License Renewed in Error, I-12,978**

Upon review of Mr. Godard's request that the Commission cancel his broker's license and company license issued for the 2009-2010 license year due to them having been renewed online with his credit card without authorization, Commissioner Morris made a motion to grant his request. Commissioner Cawthon seconded the motion and it passed 7-0 with Commissioner Watts abstaining.

**Rick Duboise, Request for Extension to File an Application for Original Salesperson's License, I-13,019**

Upon review of Mr. Duboise's request to apply for the original salesperson's license after his temporary license lapsed, Commissioner Watts made a motion to grant Mr. Duboise a 30 day extension. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

**Confirm April meeting date and location for the record**

Commissioner Watts made a motion confirming that the next Commission meeting will be held on April 3, 2009 at 9:00 a.m. at the offices of the Alabama Real Estate Commission located at 1201 Carmichael Way, Montgomery, Alabama and that a Strategic Planning meeting will be held on April 2, 2009 at 9:00 a.m. in the Jones Board Room at the Department of Archives and History Building located at 624 Washington Avenue, Montgomery, Alabama. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 12:50 p.m.

Done this 11<sup>th</sup> day of March, 2009.

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Jewel Buford, Vice-Chairman

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Patricia Anderson, Recording Secretary