

## MINUTES

A meeting of the Alabama Real Estate Commission was held May 21, 2010, 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; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly, Phillip Bunch and K.C. Baldwin; Auditors Anthony Brown, Denise Blevins and Vickie Shackelford. The Hearing Officer was Tori Adams.

Other staff members present were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham 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 Sheila Hodges.

Commissioner Morris moved to approve the April 23, 2010 minutes. Commissioner Riggins-Allen seconded the motion and it passed unanimously 9-0.

Commissioner Hodges recognized Commissioner Jan Morris for her recent graduation from ARELLO's Commissioner College. Commissioner Morris was presented with a certificate so noting this accomplishment. She was congratulated by Commissioners and staff.

Executive Director Philip Lasater reported on the April financial report. He explained that the Professional Services line item increase shown on the report is due to accommodations having already been made for a special mailing of the renewal edition of the Update in late June and mailing of the renewal forms in late July. He reported that we have adequate revenue to complete the fiscal year. Upon question by Commissioner Watts, Mr. Lasater stated that the decline in new licensees is beginning to stabilize.

Mr. Lasater asked Commissioners if they wished to affirm efforts to pursue legislation concerning the apartment managers exemption. Commissioner Hodges expressed her desire to work with the Alabama Law Institute as they research and possibly develop legislation regarding community association management. There was consensus that there needs to be licensing for condo managers and directed Mr. Lasater to arrange a meeting or teleconference with Alabama Law Institute Director Bob McCurley. Commissioner Watts made a motion to confirm the need for condo and apartment manager licensing. Commissioner Morris seconded the motion. After discussion Commissioner Watts withdrew his motion and Commissioner Morris withdrew her second. There was agreement to study the issues further and bring this back up at a later time.

Assistant Attorney General Chris Booth updated Commissioners on the work he is doing with ARELLO's Social Media Task force. As chair of the Subcommittee for Agency Use, Mr. Booth said that he is researching other state's laws, rules and policies to collect information to ascertain what has been developed regarding this issue so that it can be determined by ARELLO's Social Media Task Force what is needed and develop Best Practices that can be used by all jurisdictions. Commissioners who attended the NAR (National Association Realtors) mid year meeting commented that NAR has a sample policy for industry use of social media that is recommended for use by brokers.

Mr. Lasater asked Commissioner Cawthon to introduce his guest. Commissioner Cawthon introduced his daughter Ashley Cawthon who is a recent graduate of the University of Montevallo. Commissioners welcomed her.

Chairman Hodges reported on the previous day's meeting of the 2011 ARELLO District Task Force. She asked that Commissioners determine items representative of their area of the state and seek out merchants who will commit 200-250 of the identified items to place in the welcome bags for conference attendees. The Task Force needs to know by September what commitments they have for the 2011 District Conference. The items need to be acquired by the second quarter of 2011.

Commissioner Morris made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in open meeting. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

## **HEARINGS AND APPEARINGS**

### **Alabama Real Estate Commission vs. Margaret S. (Sue) Mikul and Mikul and Associates, Formal Complaint No. 3178**

A hearing was held in Ms. Mikul's absence. Commission records showed that Ms. Mikul was served notice of this hearing on April 23, 2010. Upon discussion of the evidence and testimony presented in the matter of Margaret S. (Sue) Mikul, Inactive Broker, Formerly Qualifying Broker for Mikul and Associates, Montevallo, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) in their failure as Qualifying Broker and Real Estate Company to notify the Commission of the institution of a civil suit against them as required by Section 34-27-31(j); Count 2: Section 34-27-36(a)(19) in their failure to notify the Commission of the judgment in the civil suit as required by Section 34-27-31(k); Count 3: Section 34-27-36(a)(23)b. by having a final money judgment in the civil suit, Commissioner Watts made a motion to find Ms. Mikul and Mikul and Associates guilty on all three counts and revoke both licenses. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. David Herman, Herman Realty, Inc., Formal Complaint No. 3190**

Upon discussion of the evidence and testimony presented in the matter of David Herman, Qualifying Broker, and Herman Realty, Inc., Montgomery, Alabama, and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(31) in that Respondents failed to keep in their files copies of all contracts, leases, listings, and other records pertinent to real estate transactions for a period of three years; Count 2: Section 34-27-36(a)(8)c. by failing to keep for at least three years a complete record of funds belonging to others showing to whom the money belongs, date deposited, date of withdrawal, and other pertinent information; Count 3: Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing, within a reasonable time, to deposit and properly account for funds belonging to others in a separate federally insured account or accounts in a financial institution located in Alabama, and by failing to deposit and account for at all times all funds coming into their possession that belong to others by having a shortage of funds in the trust account, Commissioner Watts made a motion to find David Herman and Herman Realty, Inc. guilty on all three counts, to revoke their licenses and fine them \$2,500 on each of the three counts. Commissioner Morris seconded the motion and it passed unanimously 9-0.

**Julius Warren Jennings, Jr., Applicant for Determination of Licensing Eligibility, I-13,372**

Upon discussion of the evidence and testimony presented in the matter of Julius Warren Jennings, Jr., Commissioner Morris made a motion to approve Mr. Jennings' request for licensing eligibility. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. Kwame Agyeman-Budu and Kathleen J. Gardner, Formal Complaint No. 3183**

Upon discussion of the evidence and testimony presented in the matter of Kwame Agyeman-Budu, Salesperson, and Kathleen J. Gardner, Qualifying Broker, The Realty Company of North Alabama, Inc., d/b/a Exit Realty Research Park, Huntsville, 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-.03(2) in that Respondent Agyeman-Budu failed to pay over to his qualifying broker the security deposit or rent payments coming into his possession in trust for other parties immediately upon receipt of same; Count 2: Section 34-27-36(a)(10) in Respondent Agyeman-Budu's failure to provide property owner with a signed copy of the real estate rental management agreement with reasonable promptness; Count 3: Section 34-27-36(a)(14) by Respondent Agyeman-Budu accepting a commission or other valuable consideration from a person other than his qualifying broker for renting a property; Count 4: Section 34-27-36(a)(19) in that Respondent Gardner failed to comply with Section 34-27-34(a)(2) by seeing that the transactions referenced in Counts 1, 2 and 3 complied with the Alabama Real Estate License Law, Commissioner Buford made a motion to find Mr. Agyeman-Budu guilty on counts 1, 2 and 3, fine him \$1,000 on each count and revoke his

license. Commissioner Riggins-Allen seconded the motion and it passed unanimously 9-0. Commissioner Buford made a motion to dismiss Count 4 against Ms. Gardner. Commissioner Hewes seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission vs. Darrell Reid, Reid Formal Complaint No. 3182**

Commissioner Hewes recused himself from hearing this case. Upon discussion of the evidence and testimony presented in the matter of Darrell Reid, Qualifying Broker, Reid Realty & Investments LLC, Dothan, Alabama, 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 by having irregularities and shortages in their trust accounts; Count 2: Section 34-27-36(a)(3) by making a material misrepresentation in telling the buyers that the sellers agreed to leave them certain furnishings in the property for the price of \$500 when in fact the sellers left these items to the buyers at no charge, the following disciplinary action was taken.

Commissioner Riggins-Allens made a motion to find Darrell Reid and Reid Realty & Investments, LLC guilty on Count 1, fine each \$1,000 and revoke both licenses and on Count 2 to find Darrell Reid guilty, fine him \$1,000 and revoke his license. Commissioner Buford seconded the motion and it passed unanimously 8-0 with Commissioner Hewes not voting since he had recused himself from the hearing.

**Alabama Real Estate Commission vs. Judy R. Ramey and Caribe Realty, Inc., Formal Complaint No. 3184**

The Hearing Officer had earlier granted a continuance on this matter based on Ms. Ramey's attorney's request. The hearing is to be rescheduled for the June meeting.

**Alabama Real Estate Commission vs. Wiley W. Reed, Formal Complaint No. 3180**

The scheduled hearing on Formal Complaint No. 3180 was continued at Mr. Reed's request due to his traveling to another state to be with his seriously ill daughter.

**NOT APPEARING ITEMS FOR RULING**

**Eric Wood, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3188**

Upon discussion of the evidence and testimony presented in the matter of Eric Wood, Temporary Salesperson, JRHBW Realty, Inc., d/b/a RealtySouth Trussville Office, Trussville, 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. Wood guilty and fine him \$250. Commissioner Buford seconded the motion and it passed unanimously 9-0.

**Dan Ellis Footman, Jr., Request for Dismissal of Formal Complaint on Bad Check, Formal Complaint No. 3185**

Upon review of the written request by Mr. Footman for dismissal of the formal complaint against him, Commissioner Morris made a motion to dismiss the complaint. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

**Latonya Heard, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3191**

Upon review of evidence and testimony presented in the matter of Latonya Heard, Temporary Salesperson, Premier Alabama LLC, d/b/a Keller Williams 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 Morris made a motion to find Ms. Heard guilty and fine her \$250. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

**Tangela Butler, Application for Determination of Licensing Eligibility, I-13,371**

Upon review of the application for determination of licensing eligibility submitted by Ms. Butler, Commissioner Buford made a motion to approve Ms. Butler's request. Commissioner Morris seconded the motion and it passed unanimously 9-0.

**Jason Center, Application for Determination of Licensing Eligibility, I-13,381**

Upon review of the application for determination of licensing eligibility submitted by Mr. Center, Commissioner Morris made a motion to deny Mr. Center's request. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

**Calendar Review: Discuss change of July 2010 meeting date**

After discussion, Commissioner Buford made a motion to schedule the July meeting for Friday, July 23, 2010. Commissioner Morris seconded the motion and it passed unanimously 9-0.

**Confirm Next Meeting Date and Location for the Record: June 25, 2010, 9:00 a.m. in Montgomery, Alabama**

Commissioner Morris made a motion to approve the next Commission meeting date and location for June 25, 2010, at 9:00 a.m. in Montgomery, Alabama. Commissioner Buford seconded the motion and it passed unanimously 9-0.

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

Done this 21<sup>st</sup> day of May, 2010.

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Sheila Hodges, Chairman

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Patricia Anderson, Recording Secretary