

MINUTES

A meeting of the Alabama Real Estate Commission was held November 21, 2013 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Nancy Wright; Commissioners Jewel Buford, Carole Harrison, Clif Miller, Dorothy Riggins-Allen and Danny Sharp; Assistant Executive Director Patricia Anderson; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly, Phillip Bunch and K. C. Baldwin; and Auditors Anthony Brown and Denise Blevins. Tori Adams served as Hearing Officer. Commissioners Steve Cawthon and Reid Cummings were absent with notice.

Other staff members present for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, IT Manager Brett Scott, IT Developer/Programmer Richard Abbott, IT Systems Tech Candice Franklin and IT Programmer Tara Craig.

The meeting having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:00 a.m. by Chairman Bill Watts and a quorum was declared.

Commissioner Wright made a motion to approve the minutes from the October 24, 2013 meeting. Commissioner Sharp seconded the motion and it passed 7-0.

Commissioner Watts announced the following dates for Commissioners to meet and conduct interviews for the Executive Director position: December 2-3, 2013, December 16-17, 2013 and January 7-8, 2014. All meetings will begin at 9:00 a.m. and will be held at the Auburn University Montgomery TechnaCenter.

Ms. Anderson reported on the October 2013 financials. One month into the new fiscal year, expenditures are under projection and revenues are over projection resulting in a healthy cash flow. Investments are up almost \$4,800 in interest from September to October 2013. Commissioners also received reports showing financial comparisons for FY12 vs. FY13. Revenues were less in FY12 than in FY13, mainly due to the beginning of late renewal penalties in October 2012. FY13 expenditures were less than FY12.

Ms. Anderson announced that the staff has been reviewing a new Alabama License Law app. The app will allow users access to a searchable version of the License Law on a PC, tablet and mobile phone. Commissioners will receive a link to the app so that they will be able to review it prior to its release.

Ms. Anderson reported on the Recovery Fund. Commissioners received a history of the Recovery Fund and a report of pending and completed Recovery Fund cases. Ms. Anderson explained that payouts from the Recovery Fund have exceeded revenue over the past five years. She stated that the Fund is in good shape, but this is a trend that should be watched to ensure that the fund balance does not drop too low. If the fund balance falls below \$500,000, Commissioners may vote to assess each licensee \$30 in accordance with Section 34-27-31(d) of Alabama License Law.

Mr. Booth provided an overview of the types of Recovery Fund cases that are pending and the circumstances under which they may be eligible for payment from the Recovery Fund.

Commissioner Miller made a motion that Commissioners conduct hearing disposition discussions and decisions in open meeting. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0.

HEARINGS

Alabama Real Estate Commission vs. Latonya D. Heard, Formal Complaint No. 3324

Upon discussion of the evidence and testimony presented in the matter of Latonya D. Heard, Salesperson, JRHBW Realty, Inc., d/b/a RealtySouth Inverness 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 Riggins-Allen made a motion to find Ms. Heard guilty. Commissioner Sharp seconded the motion and it passed unanimously 7-0.

Commissioner Sharp made a motion to fine her \$1,000. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0. Commissioner Harrison made a motion to suspend her license for six months with the suspension stayed pending payment of all fines, past and current, that are owed to the Commission. Commissioner Miller seconded the motion and it passed 6-1. Commissioner Riggins-Allen voted against the motion.

Ronald Wayne Holmes - Hardship Application for Renewal of Lapsed Salesperson's License, I-14,199

Upon discussion of the hardship renewal request presented by Mr. Holmes, Commissioner Miller made a motion to grant Mr. Holmes' request. Commissioner Sharp seconded the motion, but the motion failed 1-6 with Commissioners Harrison, Buford, Wright, Sharp, Riggins-Allen and Watts voting against the motion. Commissioner Riggins-Allen made a new motion to deny Mr. Holmes' request. Commissioner Buford seconded the motion and it passed 6-1. Commissioner Miller voted against the motion.

Alabama Real Estate Commission vs. Rachel Tullier, Melissa Murrel Ross and David Troy Ross, Formal Complaint No. 3328

Upon discussion of the evidence and testimony presented in the matter of Rachel Tullier, Qualifying Broker, Alabama Gulf Coast, LLC, d/b/a Keller Williams Alabama Gulf Coast, Mobile Branch, Orange Beach, Alabama AND Melissa Murrel Ross, Salesperson, Alabama Gulf Coast, LLC, d/b/a Keller Williams Alabama Gulf Coast, Mobile Branch, Orange Beach, Alabama AND David Troy Ross, Salesperson, Alabama Gulf Coast, LLC, d/b/a Keller Williams Alabama Gulf Coast, Mobile Branch, Orange Beach, Alabama, and the alleged violations of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to comply with Section 34-27-30(10) by holding out to the public that Ocean South Properties, an unlicensed company, was able to perform real estate property management for which a license is required, without it being properly licensed; Count 2: Section 34-27-36(a)(19) by failing to comply with Section 34-27-34(a)(2) in that she failed to see that the actions of Respondents Melissa and David Ross complied with the Alabama Real Estate License Law, Commissioner Buford made a motion to find both David and Melissa Ross guilty on Count 1 and fine them \$2,500 each. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0.

Commissioner Buford made a motion to find Ms. Tullier guilty on Count 2 and fine her \$500. Commissioner Harrison offered a friendly amendment to change the fine to \$1,000. Commissioner Buford accepted the amendment to find Ms. Tullier guilty and fine her \$1,000. Commissioner Miller seconded the motion as amended and the motion passed unanimously 7-0.

Alabama Real Estate Commission vs. Cynthia W. Morgan and Lakefront Property Management, LLC, Formal Complaint No. 3325

Upon discussion of the evidence and testimony presented in the matter of Cynthia W. Morgan, Qualifying Broker, Lakefront Property Management, LLC, Dadeville, Alabama, AND Lakefront Property Management, LLC, Dadeville, Alabama, and the alleged violations of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(8)a. by commingling funds belonging to others with a company loan and having payments automatically taken from the trust account to repay the loan; Count 2: Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing to deposit and account for at all times funds that belonged to others as evidenced by the shortage in the trust account, Commissioner Miller made a motion to find Ms. Morgan and Lakefront Property Management, LLC guilty on Counts 1 and 2. Commissioner Wright seconded the motion and it passed unanimously 7-0.

Commissioner Wright made a motion to revoke both Ms. Morgan's qualifying broker's license and the company license for Lakefront Property Management, LLC. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0.

Commissioner Riggins-Allen made a motion to accept the proffered surrender of the company license for Lakefront Realty, Inc.; therefore revoking that company's license, and downgrade Ms. Morgan's qualifying broker's license to a salesperson's license allowing her 30 days to find a new company and qualifying broker. Commissioner Wright seconded the motion and it passed unanimously 7-0.

NOT APPEARING ITEMS FOR RULING

Rayveil Lanard Evans - Application for Determination of Eligibility, I-13,204

Upon review of the application for determination of licensing eligibility submitted by Mr. Evans, Commissioner Buford made a motion to deny Mr. Evans' request. Commissioner Harrison seconded the motion and it passed unanimously 7-0.

Evelyn Walley Mace - Surrender of License, Formal Complaint No. 3327

Upon review of the affidavit of license surrender submitted by Ms. Mace, Commissioner Buford made a motion to accept the surrender of Ms. Mace's license. Commissioner Wright seconded the motion and it passed unanimously 7-0.

Mary Elizabeth Comulada - Waiver of Hearing and Guilty Plea, Formal Complaint No. 3329

Upon review of the evidence and testimony presented in the matter of Mary Elizabeth Comulada, Temporary Salesperson, Huntsville, 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 of a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Buford made a motion to find Ms. Comulada guilty and fine her \$250. Commissioner Riggins-Allen seconded the motion and it passed unanimously 6-0. Commissioner Miller recused himself.

Dawn H. Keyser - Hardship Request to Renew Lapsed Salesperson's License, I-14,212

Upon discussion of the hardship request by Ms. Keyser to renew her lapsed salesperson's license, Commissioner Buford made a motion to grant Ms. Keyser's request. Commissioner Miller seconded the motion and it passed unanimously 7-0.

James T. Flatt - Applicant for Temporary Salesperson's License, I-14,214

Upon discussion of the request by Mr. Flatt for Commission approval of his temporary salesperson license application, Commissioner Wright made a motion to grant Mr. Flatt's request. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0.

Review of Rule 790-X-1-.11(1) Course Content for Continuing Education

Upon review of Rule 790-X-1-.11(1), Commissioner Watts asked for a recommendation from Ms. Anderson. Her recommendation was to not make changes to the current course content for the license period that begins October 1, 2014. Commissioner Riggins-Allen made a motion to accept Ms. Anderson's recommendation. Commissioner Wright seconded the motion and it passed unanimously 7-0.

Confirm Next Meeting Date and Location for the Record: January 23, 1:00 p.m. – Montgomery

Commissioner Sharp made a motion to approve the next Commission meeting date and location for January 23, 2014 at 1:00 p.m. in Montgomery. Commissioner Riggins-Allen seconded the motion and it passed unanimously 7-0.

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

Done this 21st day of November 2013.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary