

MINUTES

A meeting of the Alabama Real Estate Commission was held at 9:00 a.m. on October 3, 2008, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were; Commission Chairman Sheila Hodges, Vice Chairman Jewel Buford, Commissioners Bobby Hewes, Clif Miller, Jan Morris, Nancy Wright, Steve Cawthon and Dorothy Riggins-Allen; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Education Director Ryan Adair; Investigator Phillip Bunch; Hearing Officer Tori Adams. Absent with prior notice was Commissioner Bill Watts.

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

Hearing Officer Tori Adams administered the oath of office to each of the eight Commissioners present. Commissioner Watts will be sworn in at the December meeting.

Commissioner Hodges then called for the election of Chairman and Vice Chairman in accordance with Section 34-27-7(f).

Commissioner Morris nominated Sheila Hodges for Chairman. Commissioner Cawthon seconded the nomination. There being no other nominations the motion was voted on and passed unanimously 8-0.

Chairman Hodges called for nomination for Vice Chairman. Commissioner Hewes nominated Jewel Buford. Commissioner Morris seconded the motion. There being no other nominations the motion was voted on and passed unanimously 8-0.

Commissioner Morris moved to approve the September 5, 2008 minutes. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Executive Director Philip Lasater noted that the August financial statement had been posted on the Commissioner's web site. He noted little change to the current trend with a decline in revenue from temporary licenses due to fewer people taking the examination compared to this period last year. There has been greater stability in other revenue areas. The Commission is still under on expenditures. The Commission has now begun fiscal year 2009. Mr. Lasater reported to Commissioners that the next financial statement will be a comprehensive one for FY 2008.

Mr. Lasater submitted a written Executive Director's report for Commissioner's review. The proposed 2009 calendar for Commission meeting dates was discussed. Commissioner Buford made a motion to hold the January meeting on January 22 at 1:00 p.m. Commissioner Morris seconded the motion and it passed unanimously 8-0. Commissioner Cawthon made a motion to move the proposed March meeting date from March 6 to March 11. Commissioner Buford seconded the motion and it passed unanimously 8-0. Commissioner Morris made a motion to move the proposed July meeting date from July 17 to July 24. Commissioner Cawthon seconded the motion and it passed unanimously 8-0. Commissioner Morris made a motion to adopt the 2009 calendar as amended. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Chairman Hodges followed up with Commissioners on the interest expressed at the AAR Annual Convention to re-engage the Community Association Management Task Force. She asked Commissioner Morris to chair the task force and Commissioner Cawthon to Vice Chair it. Chairman Hodges will serve on the task force as an ex-officio member. The chairman asked the task force to look into the licensing of property managers and at a process to record the budget information of property managers.

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 8-0.

HEARINGS AND APPEARINGS

Alabama Real Estate Commission vs. Lawrence Edward Haynes, Formal Complaint No. 3075

Upon discussion of the evidence and testimony presented in the matter of Lawrence Edward Haynes, Qualifying Broker, Goshen Properties and Lending, Atlanta, Georgia, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presenting a check to the Commission that was returned unpaid by the bank upon which it was drawn and ignoring the ORDER to pay \$250 issued on February 26, 2008 and another which was served by certified mail on May 10, 2008, Commissioner Cawthon made a motion to revoke the license of Mr. Haynes. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Shannon Patterson Keith, Formal Complaint No. 3077

Upon discussion of the evidence and testimony presented in the matter of Shannon Patterson Keith, Inactive Salesperson, Talladega, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a) in her failure to comply with Section 34-27-31(k) by failing to notify the Commission within ten days that she entered a guilty plea to a felony criminal case that was pending and upon which she had been indicted; Count 2: Section 34-27-36(a)(23)a. by having entered a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or crime involving moral turpitude, Commissioner Morris made a motion to revoke the license of Ms. Keith. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Jessica Renee Johnson, Formal Complaint No. 3091

Upon discussion of the evidence and testimony presented in the matter of Jessica Renee Johnson, Associate Broker, Hill Real Estate, Inc., Cullman, Alabama and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) via Section 34-27-31(j) by failing to report within ten days that she had been served with a civil suit; Count 2: Section 34-27-36(a)(19) via Section 34-27-31(k), by failing to report within ten days that a judgment had been rendered in the civil suit; Count 3: Section 34-27-36(a)(23)b. by having a final money judgment entered against her, Commissioner Morris made a motion to find Ms. Johnson guilty on all three counts, fine her \$100 and suspend her license for 90 days but this suspension is stayed for a period of 90 days during which time Ms. Johnson is to attend and complete a three hour continuing education course in risk management. If the course is completed during the 90 day stay then the suspension is permanently stayed. This continuing education requirement will not apply to the renewal requirements for continuing education. Commissioner Cawthon seconded the motion and it passed 7-0 with Commissioner Wright recusing herself.

Alabama Real Estate Commission vs. Debra Ann Williams a/k/a Debra A. Cook, Formal Complaint No. 3076

In the absence of Ms. Williams, this matter was continued because the Commission could not prove service within the previous 15 days required by Section 34-27-37(a).

Claudine Ann Arredondo-Graf, Determination of Licensing Eligibility, I-11,977

Upon determination of the application for determination of licensing eligibility submitted by Ms. Arredondo-Graf, Commissioner Hewes made a motion to deny Ms. Graf's request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Gerald C. Phillips and Norman C. Schlemmer, Jr.,
Formal Complaint No. 3082**

Upon discussion of the evidence and testimony presented in the matter of Gerald C. Phillips, Salesperson with Alfa Realty, Montgomery, Alabama, at the time of allegations (currently Salesperson with Century 21 Professional Services, LLC, Montgomery, Alabama) and Norman C. Schlemmer, Jr., Qualifying Broker, Alfa Realty, Montgomery, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(3) in that Respondent Phillips made a material misrepresentation in the form of a written letter signing the co-owners name without the co-owners knowledge or permission stating to the buyers that they would be guaranteed a net of at least \$15,000 when they (buyers) sold the property; Count 2: Section 34-27-36(a)(19) in that Respondent Phillips failed to comply with Section 34-27-84(a)(6) in that he failed to disclose to the buyers that he was acting on behalf of himself in that he had a personal interest in the property being sold to them; Count 3: Section 34-27-36(a)(6) by publishing or causing to be published an advertisement in the form of a for sale sign which failed to identify Phillips as a licensed salesperson; Count 4: Section 34-27-36(a)(19) in that Qualifying Broker Schlemmer failed to comply with Section 34-27-34(a)(2) by failing to see that the transaction in which Phillips and Stafford (co-owner) sold the property to the Wolfes (buyers) complied with the Alabama Real Estate License Law, specifically, making Schlemmer responsible for the actions described in Counts 1 through 3, Commissioner Cawthon made a motion to find Mr. Phillips guilty on Counts 1, 2 and 3 and revoke his license and to dismiss Count 4 against Mr. Schlemmer. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Jan Harris, Hardship Temporary Salesperson Applicant, I-12,823

Upon discussion of the testimony presented by Ms. Harris and her request for an extension to take the salesperson's exam, Commissioner Hewes made a motion to approve a 45 day extension. The motion was seconded by Commission Buford and it passed 7-1 with Commissioner Morris voting no.

NOR APPEARING ITEMS FOR DISCUSSION

Beverly Griffith Lepore, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3096

Upon review of the evidence presented in the matter of Beverly Griffith Lepore, Salesperson, JRHBW Realty Inc., d/b/a RealtySouth-Hoover 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 Cawthon made a motion to find Ms. Lepore guilty and fine her \$250.00. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Keith Daniels, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3104

Upon review of the evidence presented in the matter of Keith Daniels, Associate Broker, Intervest Realty Affiliates, Montgomery Branch, Montgomery, 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. Daniels guilty and fine him \$250.00. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Jackie Busby Champion, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3097

Upon review of the evidence and testimony presented in the matter of Jackie Busby Champion, Salesperson, JRHBW Realty, Inc., d/b/a RealtySouth-Chelsea Branch, Chelsea, 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 Buford made a motion to find Ms. Champion guilty and fine her \$250.00. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Brandi Jo Baker, Request to Surrender License in Lieu of Hearing, Formal Complaint No. 3047

Upon review of the request and documentation submitted by Ms. Baker and the surrender of her license, Commissioner Buford made a motion to accept the license surrender. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Fred J. Burson, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3073

Upon review of the evidence and testimony presented in the matter of Fred J. Burson, Qualifying Broker, Burson Weathers Real Estate Company, Inc., Alva, Florida, 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 thirty (30) days of having changed his business address, Commissioner Hewes moved to find Mr. Burson guilty and fine him \$250. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Gary W. Pharo, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3089

Upon review of the evidence and testimony presented in the matter of Gary W. Pharo, Qualifying Broker, The Shopping Center Group LLC, 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 by failing to notify the Commission in writing within thirty (30) days of having changed the business address, Commissioner Morris moved to find Mr. Pharo guilty and fine him \$250. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

John W. Weber. Waiver of Hearing and Guilty Plea, Formal Complaint No. 3094

Upon review of the evidence and testimony presented in the matter of John W. Weber, Qualifying Broker, Apartment Realty Advisors, Inc., Atlanta, Georgia, 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 (30) days of having changed his business address, Commissioner Hewes moved to find Mr. Weber guilty and fine him \$250. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Edwin J. Ricketts, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3092

Upon review of the evidence and testimony presented in the matter of Edwin J. Ricketts, Qualifying Broker, D/B/A Edwin J. Ricketts, Phoenix, Arizona, 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 he failed to notify the Commission in writing within thirty (30) days of having changed the business address, Commissioner Morris moved to find Mr. Ricketts guilty and fine him \$250. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Tim J. Franklin, Request for Waiver of Late Renewal Penalty Fee for Renewal of Salesperson's License, I-12,847

Upon review and consideration of the circumstances in Mr. Franklin's request for waiver of the renewal penalty fee, Commissioner Cawthon made a motion to grant the request. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Michael M. Shunnarah, Jr., Request for Waiver of Late Renewal Penalty Fee for Renewal of Salesperson's License, I-12,855

Upon review and consideration of the circumstances in Mr. Shunnarah's request for waiver of the renewal penalty fee, Commissioner Morris made a motion to deny the request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Lori L. Mitchell, Request for Waiver of Late Renewal Penalty Fee for Renewal of Salesperson's License, I-12,859

Upon review of Ms. Mitchell's request for waiver of the late renewal penalty fee, Commissioner Cawthon made a motion to deny the request. Commissioner Buford seconded the motion and it passed unanimously 8-0.

TaNieka Wilson, Request for Extension to Take the 30-Hour Post License Course and File an Application for Original Salesperson's License, I-12,853

Upon review of Ms. Wilson's request for an extension for completing the post-license course and applying for the original salesperson's license, Commissioner Morris made a motion to grant her a 60 day extension to complete the course and file application for a license. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Amelia M. Lawson, Request for Extension to Complete the Salesperson's Prelicense Course, I-12,854

Upon review of Ms. Lawson's request that the Commission grant her an extension for applying for the temporary salesperson's license without having to retake the prelicense course, Commissioner Cawthon made a motion to deny the request. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Logan Elmore, Request for Extension to File Application for Original Salesperson's License, I-12,880

Upon review of Mr. Elmore's request for an extension for applying for the original salesperson's license, Commissioner Buford made a motion to grant an extension and allow him to submit his application. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Pamela Martin-Lynch, Request to Surrender License In Lieu of Hearing, FC 3110

Upon discussion of the surrender of license by Ms. Martin-Lynch, Commissioner Morris moved to accept the affidavit of surrender from Ms. Martin-Lynch. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Richard A. Burton, Waiver of Hearing and Guilty Plea, FC 3101

Upon review of the evidence presented in the matter of Richard A. Burton, Salesperson, The Prudential Cooper and Company, Inc., Hillcrest Branch, 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 Hewes made a motion to find Mr. Burton guilty and fine him \$250.00. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Linda L. Ross, Request for Hearing or Dismissal of Formal Complaint 3105

Upon review of the evidence presented in the matter of Linda L. Ross, Inactive Salesperson, 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 complaint. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Deborah Faye Brown, Request for Hearing or Dismissal of Formal Complaint 3105

Upon review of the evidence presented in the matter of Deborah Faye Brown, Qualifying Broker, Deborah Brown Real Estate Construction, 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 Morris made a motion to dismiss the complaint. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Reginald Seay Surrender of License, I-12,320 and I-12,251

Upon discussion of the surrender of license by Mr. Seay, Commissioner Morris moved to accept the affidavit of surrender from Mr. Seay. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Ralph “Butch” Wright, Hardship Waiver Non-Adjacent Office Space, Three Salespersons, I-12883.

Upon review of Mr. Wright’s request to house some agents at another site until they move into a new building in a few months, Commissioner Riggins-Allen made a motion to deny the request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 1:00 p.m.

Done this 3rd day of October, 2008.

Sheila Hodges, Chairman

Patricia Anderson, Recording Secretary