

MINUTES

The Alabama Real Estate Commission met September 28, 2007 at the Alabama Real Estate Commission building, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Poole; Commissioners Jewel Buford, Gordon Henderson, Bobby Hewes, Chester Mallory, Jan Morris, Dorothy Riggins and Bill Watts; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Education Director Ryan Adair; Investigators David Erfman, Chuck Kelly and Phillip Bunch; Auditors Anthony Brown and Vicky Shackelford; Hearing Officer was Tori Adams. Commissioner Sheila Hodges was absent with notice.

The meeting having been duly noticed in accordance with the Open Meeting Act, Chairman Poole called the meeting to order. Guest Cindy Ruskin was recognized and welcomed along with incoming Commissioner Steve Cawthon.

A moment of silence was observed in memory of recently retired staff member Gloria Ingram.

Commissioner Morris moved to approve the August 24th meeting minutes as presented. Commissioner Watts seconded the motion and it passed unanimously 8-0.

The August financial statement was reviewed with trends and balances noted by Executive Director Philip Lasater with no action taken.

Pat Anderson, Assistant Executive Director reviewed at length and detail the history of broker applicant testing and the accommodations that were being made for the excessive increase in candidates seeking to avoid completion of the 60 hour course effective October 1. Upon thorough discussion and response to questions, Commissioner Morris confirmed the consensus of understanding by stating that "if someone calls today, can they be scheduled to test somewhere" to which the reply was yes.

Commissioners Mallory, Morris and Hodges reported on the ARELLO annual conference recently concluded in New York. Commissioner Morris specifically noted the relevance of Richard Mendenhall's presentation regarding "The Internet". Commissioner Mallory, having received the ARELLO Education award for the Alabama Commission and its broker prelicense course development, presented it to Education Director Ryan Adair. Chairman Poole reported on the industry liaison with Alabama Realtors at the recently concluded annual convention in Panama City, Florida.

Executive Director Philip Lasater was recognized for a presentation to Chairman Poole. On behalf of the Commission, a commemorative gift of a bronzed gavel was presented to Chairman Poole. Commissioner Hewes moved to adopt a resolution commemorating the tenure and service of Chairman Poole. Commissioner Henderson seconded the motion and it was adopted unanimously 8-0. Commissioner Hewes read the resolution and it was presented to Chairman Poole. There was a strong consensus of appreciation expressed to Commissioner Henderson for hosting a dinner in Mr. Poole's honor for Commissioners and staff the evening prior.

HEARINGS

Alabama Real Estate Commission vs. James W. Cain, Formal Complaint No. 3021

Upon discussion of the evidence and testimony presented in the matter of James W. Cain, Qualifying Broker, Pooles and Associates, Inc., Decatur, 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 all funds coming into their possession that belonged to others, Commissioner Henderson moved to find Mr. Cain guilty and to fine him \$250 and to suspend his license for 90 days with the suspension stayed provided he completes a Risk Management Course in Property Management within one year. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Lestryet D. Samuels, Formal Complaint No. 3020

Upon discussion of the evidence and testimony presented in the matter of Lestryet D. Samuels, Exit Realty at Hillcrest, Mobile, 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 crime involving moral turpitude, Commissioner Buford moved to revoke the license of Mr. Samuels. Commissioner Morris seconded the motion and it failed 3-4 with Commissioners Hewes, Henderson, Watts and Riggins voting no. Commissioner Riggins moved to find Mr. Samuels guilty and to fine him \$250. Commissioner Mallory seconded the motion and it passed 6-2 with Commissioners Buford and Morris voting no.

Alabama Real Estate Commission vs. Lance A. Calhoun, Formal Complaint No. 3022

Upon discussion of the evidence and testimony presented in the matter of Lance A. Calhoun, Monument Management Services, LLC and Monument Realty Services, LLC, Montgomery, 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 properly account for money coming into his possession which belonged to others as demonstrated by the shortage of funds in the rental trust account and by commingling trust funds with his personal operating funds; Count 2: Section 34-27-36(a)(8)b. by failing to deposit and account for funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama; Count 3: Section 34-27-36(a)(31) by failing to keep in his files copies of all contracts, leases, listings and other records pertinent to real estate transactions for a period of three years; Count 4: Section 34-27-31(j) and Section 34-27-31(k) by failing to notify the Commission within ten days of a civil summons and complaint filed against him and that a judgment was rendered against him and/or dismissed, Commissioner Morris moved to find Mr. Calhoun guilty on count #1 and to fine him \$500. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Commissioner Henderson moved to dismiss count #2. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Commissioner Watts moved to find Mr. Calhoun guilty on count #3 and to fine him \$500. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

Commissioner Hewes moved to find Mr. Calhoun guilty on count #4 fine him \$500. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

Commissioner Morris moved to re-consider the previous motion and Commissioner Buford seconded the motion and it passed unanimously. Commissioner Morris moved further to suspend Mr. Calhoun's license 90 days with the suspension stayed provided he completes a Risk Management Course in property management within one year. Commissioner Henderson seconded the motion and it passes unanimously 8-0.

Shalunda DeVoyne Wimes, Applicant for Determination of Licensing Eligibility, I-12,442

Upon review and discussion of the license eligibility application submitted by Ms. Wimes, Commissioner Morris moved to approve the license eligibility of Ms. Wimes. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

Winford S. Lee, Hardship Application, I-12,459

Upon discussion of Ms. Lee's failure to meet original salesperson's license requirements by the deadline, Commissioner Mallory moved to approve a 60 day extension for Ms. Lee to submit her original license application. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

NOT APPEARINGS

Nicole B. Hicks, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3013

Upon discussion of the evidence and testimony presented in the matter of Nicole B. Hicks, Qualifying Broker, Realty Link Realty Company, Inc., Nashville, Tennessee, 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 to find Ms. Hicks guilty and to fine her \$250. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Janibal Vazquez, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3024

Upon discussion of the evidence and testimony presented in the matter of Janibal Vazquez, Salesperson, 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 Henderson moved to find Ms. Vazquez guilty and

to fine her \$250. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Steve Middlebrooks, Application for Determination of Licensing Eligibility, I-12,452

Upon review of the application for determination of licensing eligibility submitted by Mr. Middlebrooks, Commissioner Henderson moved to approve the license eligibility of Mr. Middlebrooks. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

James L. Whitley, Application for Determination of Licensing Eligibility, I-12,371

Upon review of the application for determination of licensing eligibility submitted by Mr. Whitley, Commissioner Watts moved to deny the license eligibility of Mr. Whitley. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Jenny Doerr, Request for Extension to take Salesperson's Examination, I-12,466

Upon discussion of Ms. Doerr's failure to schedule the salesperson's exam before the one year deadline after completing the 60 hour prelicense course and her request for an extension, Commissioner Henderson moved to deny the extension request for taking the salespersons examination. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Martha Watkins, Requesting Waiver for Penalty on Renewal of Expired License, I-12,454

Upon discussion of Ms. Watkin's request for a waiver for having to pay the \$150 penalty required for late renewal payment, Commissioner Watts moved to deny the request for waiver of the renewal fee penalty. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Jennifer Middleton Adams, Hardship Request for License Reinstatement or Revocation Period Shortened, I-12,461

Upon discussion of Ms. Adams' request for license reinstatement of for a shorter revocation period, Commissioner Watts moved to deny the request to amend a Commission Order. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

Rosalind Dover, Applicant for Broker's License, I-12,467

Upon discussion of Ms. Dover's request for broker license approval, Commissioner Watts moved to grant brokers license without retaking the exam previously passed. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

Hun Lee, Request for Extension to 90-Day Deadline for License Issuance, I-12,473

Upon review of the circumstances surrounding Mr. Lee's failure to apply for a temporary license before the 90-day deadline, Commissioner Watts moved to approve a 60 day extension for Mr. Lee to have his license issued. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Betty J. Hobby, Request for Extension to Apply for Original Salesperson's License, I-12,472

Upon review of Ms. Hobby's request for an extension to the one year deadline for applying for an original license, Commissioner Henderson moved to deny the extension to renew a lapsed license. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

There being no further business, the Commission adjourned at 12:15 p.m.

Done this 28th day of September, 2007.

Sheila Hodges, Vice Chair

D. Philip Lasater, Recording Secretary