

MINUTES

A meeting of the Alabama Real Estate Commission was held April 21, 2022 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama. This meeting was also available by video teleconference (VTC).

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order by Commission Chairman Emmette Barran at 9:00 a.m.

Chairman Barran called the roll and the following Commissioners indicated their presence with a spoken "present": Commissioners Jimmie Ann Campbell, Betsy Echols, Joyce Harris, Randy McKinney, Susan Smith and Cerita Tucker Smith. A quorum was declared. Vice Chairman Terri May was absent with notice. The seat for the Sixth District is currently vacant.

Commission staff members in attendance or participating via VTC for all or part of the meeting were Executive Director Vaughn Poe; Assistant Executive Director Teresa Hoffman; General Counsel Starla Van Steenis; Assistant General Counsel Zack Burr; Investigators K.C. Baldwin, David Erfman, Rickey Fennie and Marshall Simons; Legal Assistant Ernestine Reeves; Communications and Public Relations Director Vernita Oliver-Lane; Communications and Public Relations Specialist Senior Lori Moneyham; State Professional Trainee Jess Sparks; Communications and Public Relations Intern Tylar Hooks; Education Director Ryan Adair; Education Specialists David Bowen, Julie Norris and Pam Oates; Education Assistant Nancy Williamson; Accounting and Personnel Director Mollie Jones; Auditors Denise Blevins, Anthony Brown and Vickie Shackelford; Account Clerk Amber Green; Information Technology Director Brett Scott; Information Technology Systems Specialist Steven Brown; Licensing Director Anthony Griffin; Licensing Assistants Edward Arrington, Shy'kierra Knight and Price Sparks; and Executive Assistant Barbi Lee. The Hearing Officer was Jim Hampton.

Members of the public also attended via video teleconference.

Commissioner Campbell made a motion to approve the minutes from the March 24, 2022, Commission meeting. Commissioner Harris seconded the motion and it passed unanimously 7-0.

EXECUTIVE DIRECTOR'S REPORT

Director Poe invited IT Director Brett Scott to give Commissioners an update regarding the implementation of the new ELIAS system. Mr. Scott reported ELIAS went live on April 12, 2022 with a few bumps in the rollout that were expected. One goal will be a paperless licensing process for all applicants. New licensees will be able to upload all documentation into the database without having to mail paperwork to the Commission's office or deliver it in person. An enhanced feature will be the security of personal information as this information is now encrypted. Director Poe expressed his appreciation to Mr. Scott and his team for their work on the new ELIAS system.

Director Poe presented the March 2022 financial reports and gave Commissioners an update on revenues and expenditures in the operating and recovery fund accounts. A mid-year fiscal review was completed and only 42% of the 2022 budget has been expended. There have been no recovery fund payouts for the past 30 days. The Commission has paid \$352,759.56 to other state agencies for services for fiscal year 2022.

Director Poe reported the Commission has issued 38,809 total licenses. There are 4,662 licensed companies and branches. During March there were 679 licenses issued: 279 Temporary, 348 Original Salesperson and 52 Broker. The average rate of growth has increased to 11.04 new license applications per day, or roughly 331 per month. Presently there are 8,918 inactive licenses.

He stated that the Accounting Division reported that 35 desk audits and six assistance visits were completed since the last Commission meeting.

The Education Division reported there are 746 total education licenses. Education staff performed seven audits during March that included six course audits and one school audit. These audits are conducted for in-person and virtual education courses.

Director Poe gave an update on the Prelicense and Post License Task Force. The task force has begun its discussions of the content that should be included in the Prelicense II Specialty Track for commercial real estate. Work will begin on the property management track at the next meeting on April 29, 2022.

Director Poe recapped the ARELLO® Mid-Year Meeting in Savannah, Georgia April 6-8, 2022. He announced and congratulated Commissioner Cerita Tucker Smith for becoming a member of the ARELLO® Fair Housing Committee during the Mid-Year Meeting. He also announced that Education Director Ryan Adair was elected District 2 Vice President on the ARELLO® Board of Directors. District 2 includes Alabama, Arkansas, Bahamas, Florida, Georgia, Jamaica, Kentucky, Louisiana, Mississippi, North Carolina, Nova Scotia, Puerto Rico, South Carolina, Tennessee, Texas, Virgin Islands, Virginia and West Virginia. The 2022 Annual Meeting will be held August 29 – September 2, 2022 in Nashville, Tennessee.

He reminded Commissioners that the Alabama Ethics Commission's required filing of the Statement of Economic Interests that is due by April 30, 2022. He also reminded them that the required training for the Examiners of Public Accounts should be completed on or before May 1, 2022. He asked everyone to email Barbi Lee when their training had been completed.

Director Poe reminded everyone of the Commission's outreach events:

- *Briefly Legal* is held quarterly via Microsoft Teams (Date TBD each quarter).
- Coffee With the Commission is held the Wednesday before the Commission meeting at 9:00 a.m. on Microsoft Teams.
- Commission meetings can be live streams on Microsoft Teams monthly at 9:00 a.m.

- The Commission has Facebook, Twitter, Instagram, YouTube and TikTok social media sites. The handle for all sites is: @arecalabamagov.

COMMISSIONER DISCUSSION

1. Approve Proposed Rule Amendment for Certification to Legislative Services Agency

a. Rule Amendment 790-X-1-.11 Course Content for Continuing Education. Education Director Ryan Adair reminded Commissioners that although this rule will be effective on July 15, 2022, the requirements of this rule change are effective October 1, 2022 after the current license renewal cycle ends. This requirement change will affect licensees who renew on or before September 30, 2024. Mr. Adair informed Commissioners that the word *qualifying* was deleted to be consistent in Section 2b.

Upon discussion of the proposed rule amendment, Commissioner Campbell made a motion to approve, as amended, proposed rule amendment 790-X-1-.11 for certification with the Legislative Services Agency. Commissioner Harris seconded the motion and it passed unanimously 7-0.

2. Consideration of Requests

- a. Huntsville Area Association of REALTORS®
- b. Montgomery Area Association of REALTORS®
- c. Mobile Association of REALTORS®
- d. Alabama Real Estate Educators Association (AREEA)

Assistant Executive Director Teresa Hoffman provided Commissioners with background information explaining how and why ARELLO® created the distance education certification. The first certified distance education was granted in 1999 by Dr. Robert Meyer, a Fulbright Scholar in Distance Education based in St. Petersburg, Florida. Dr. Meyer was contracted by ARELLO® and led a task force to establish distance education standards based on regulators' and education providers' concerns. Once the ARELLO® certification was established, more than 34 jurisdictions were recognizing this certification and embraced distance education as a viable educational option.

Education Director Ryan Adair explained how the unexpected and unpredictable effects of COVID-19 shifted everyone to synchronous distance education. The Commission allowed this option to be offered without proper ARELLO® certification due to the pandemic. During this time, ARELLO® made the decision to assist providers by reducing the certification fees and adding staff to review and certify synchronous courses, which now takes three to five business days with proper submissions. Mr. Adair further explained the need for continuation of ARELLO® certification as their team is better equipped with the technical specialization to review and certify the design and delivery of all courses submitted for distance education. Alabama is well-respected using ARELLO® tools to maintain high standards. The fees for a three-year certification from ARELLO® were explained and how providers and courses can obtain this certification. He

also stated the certification is for a single course. Currently there are 41 jurisdictions that recognize ARELLO® certified courses.

Chairman Barran reminded everyone there are currently seven schools that are not certified and are offering these courses. Commissioner Smith asked Mr. Adair for the total number of schools in Alabama and he replied 234.

Director Poe stated there were two questions asked in the requests: (1) Extend the waived deadline of April 30, 2022 for uncertified distance education to September 30, 2022. (2) No longer require certification of distance education. The letter from Alabama Real Estate Educators Association was in full support of keeping the current certification process in place. Director Poe stated an extension of the deadline would not be a burden on staff and preparations will be made to develop a Plan of Action and Milestones (POA&M) to assist schools and instructors with getting those courses certified. Commissioner Smith asked Director Poe to explain a POA&M for everyone. Director Poe explained a POA&M is a tool that is used to correct a deficiency. The plan explains how a deficiency will be fixed and by when it will be fixed in chronological order. The POA&M for course certification will require an indication as to when a school wants to get certified, what steps have been taken to apply for certification and where they are in the process. Commissioner Smith asked Director Poe for suggested deadlines for the POA&M. He suggested a deadline of May 31, 2022 to have the POA&M back to the Commission or that course can no longer be taught after September 30, 2022. The POA&M ensures a plan will be made going forward for those courses that are not currently certified.

Commissioner Smith explained that she was serving on the Commission when the first extension was granted and it was due to a very unavoidable situation: COVID. At that time, no one could have predicted that this deadline would have been extended until now. She stated that, as an educator, she is booked many months in advance for courses to be taught and certainly understands why the extensions have been granted. However, this extension would require a plan to be made for those schools who have courses being taught that are not certified and provide a hard deadline to become compliant.

Upon discussion of requests from the Huntsville Area Association of REALTORS®, Montgomery Area Association of REALTORS®, Mobile Area Association of REALTORS® and Alabama Real Estate Educators Association (AREEA), Commissioner Tucker Smith made a motion to grant a deadline for those schools that plan to provide distance education to submit a POA&M by May 31, 2022 and the absolute deadline to obtain certification is September 30, 2022. Commissioner Campbell seconded the motion and it passed unanimously 7-0. The request to decertify distance education was declined based on the previous motion.

HEARINGS – 9:30 Docket

Alabama Real Estate Commission VS. Kurt A. Scheer, Formal Complaint No. 3577

General Counsel Starla Van Steenis advised Commissioners that Mr. Scheer submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Kurt A. Scheer, Salesperson, Trussville, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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.

Upon discussion of the evidence presented in the matter, Commissioner Campbell made a motion to accept Mr. Scheer's guilty plea and fine him \$100. Commissioner Echols seconded the motion and it passed unanimously 7-0.

Judy R. Wireman (formerly Judy R. Ramey), Request for Approval to Hold a Real Estate License after License was Previously Revoked, Investigative File I-22-005

Attorney Marc Ayers represented Ms. Wireman.

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Wireman's request for approval to hold a real estate license after her license was previously revoked, Commissioner McKinney made a motion to approve her request and to operate in the salesperson's capacity a minimum of two years before seeking her broker's license. Commissioner Smith seconded the motion and it passed unanimously 7-0.

Christopher Mallery, Application for Determination of Licensing Eligibility, Investigative File I-22-130

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Mallery's application for determination of licensing eligibility, Commissioner Harris made a motion to approve his application. Commissioner Campbell seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission VS. Robert Ernest Champagne, Formal Complaint 3585

This hearing was continued without date.

Nakeesha Lawton, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-140

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Lawton's application for a real estate salesperson's temporary license, Commissioner Smith made a motion to approve her application. Commissioner Harris seconded the motion and it passed unanimously 7-0.

Chrystal White, Application for Determination of Licensing Eligibility, Investigative File I-22-111

Upon discussion of the evidence and testimony presented in the matter regarding Ms. White's application for determination of licensing eligibility, Commissioner Smith made a motion to approve her application. Commissioner Harris seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission VS. Kaleijara Dominique Holmes, Formal Complaint No. 3587

General Counsel Starla Van Steenis advised Commissioners that Ms. Holmes submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Kaleijara Dominique Holmes, Salesperson, Mobile, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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.

Upon discussion of the evidence presented in the matter, Commissioner Tucker Smith made a motion to accept Ms. Holmes' guilty plea and fine her \$500. Commissioner Echols seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission VS. Sophia Rose Thomas, Formal Complaint No. 3589

Assistant General Counsel Zack Burr advised Commissioners that Ms. Thomas submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Sophia Rose Thomas, Salesperson, Littleton, Colorado was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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.

Upon discussion of the evidence presented in the matter, Commissioner Harris made a motion to accept Ms. Thomas' guilty plea and fine her \$100. Commissioner Tucker Smith seconded the motion and it passed unanimously 7-0.

At 10:55 a.m. Hearing Officer Jim Hampton advised Chairman Barran that the 9:30 a.m. docket was concluded. Considering that the 9:30 docket was concluded, Chairman Barran asked for a motion to go into Executive Session for approximately 25 minutes to deliberate the 9:30 docket cases in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9). Commissioner Campbell made a motion that Commissioners go into Executive Session in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9) for approximately 25 minutes. Commissioner Smith seconded the motion and it passed unanimously 7-0.

At 11:37 a.m. Commissioners returned with all Commissioners named during the initial 9:00 a.m. roll call present. Chairman Barran asked for a motion to return to Open Session. Commissioner Campbell made a motion to return to Open Session. Commissioner Tucker Smith seconded the motion and it passed unanimously 7-0.

HEARINGS – 10:30 DOCKET

Alabama Real Estate Commission VS. Jessee Allen Deloach and Natasha Ashley Miller Deloach, Formal Complaint No. 3582

This hearing was continued until May 19, 2022.

Shvonda Nicole Bassett, Application for Determination of Licensing Eligibility, Investigative File I-22-057

This hearing was continued until May 19, 2022.

Alabama Real Estate Commission VS. Taylor Harrelson Parker, Formal Complaint No. 3586

Assistant General Counsel Zack Burr advised Commissioners that Mr. Parker submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Taylor Harrelson Parker, Salesperson, Enterprise, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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.

Upon discussion of the evidence presented in the matter, Commissioner McKinney made a motion to accept Mr. Parker's guilty plea and fine him \$250. Commissioner Harris seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission VS. James S. Calvert, Formal Complaint No. 3581

General Counsel Starla Van Steenis advised Commissioners that Mr. Calvert was not present for the hearing, but proper service had been received. The facts of the case were presented.

James S. Calvert, Salesperson, Gulf Shores, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with *Code of Alabama* 1975, as amended, Section 34-27-31(j) in his failure to notify the Commission within ten (10) days of the institution of criminal prosecution against him in four criminal arrests.

Upon discussion of the evidence presented in the matter, Commissioner Smith made a motion to find him guilty. Commissioner Campbell seconded the motion and it passed

unanimously 7-0. Commissioner McKinney made a motion to suspend Mr. Calvert's license until the five pending cases are adjudicated. Commissioner Echols seconded the motion and it passed unanimously 7-0.

Rhea Devilbiss, Application for Determination of Licensing Eligibility, Investigative File I-22-094

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Devilbiss' application for determination of licensing eligibility, Commissioner Harris made a motion to approve her application. Commissioner Smith seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission VS. Justin Ridgeway, Formal Complaint No. 3578

General Counsel Starla Van Steenis advised Commissioners that Mr. Ridgeway submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Justin Ridgeway, Salesperson, McCalla, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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.

Upon discussion of the evidence presented in the matter, Commissioner Smith made a motion to accept Mr. Ridgeway's guilty plea and fine him \$100. Commissioner Harris seconded the motion and it passed unanimously 7-0.

William Netherton, Application for Determination of Licensing Eligibility, Investigative File I-22-139

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Netherton's application for determination of licensing eligibility, Commissioner Smith made a motion to approve his application. Commissioner Harris seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission VS. Jack Hunter Medsker, Formal Complaint No. 3592

General Counsel Starla Van Steenis advised Commissioners that Mr. Medsker submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Jack Hunter Medsker, Salesperson, Redfield, Arkansas was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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.

Upon discussion of the evidence presented in the matter, Commissioner Echols made a motion to accept Mr. Medsker's guilty plea and fine him \$100. Commissioner Harris seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission VS. Benjamin Daniel Hedden, Formal Complaint No. 3591

Assistant General Counsel Zack Burr advised Commissioners that Mr. Hedden submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Benjamin Daniel Hedden, Salesperson, Birmingham, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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.

Upon discussion of the evidence presented in the matter, Commissioner Smith made a motion to accept Mr. Hedden's guilty plea and fine him \$100. Commissioner Campbell seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission VS. David R. Bradley, Formal Complaint No. 3590

David R. Bradley, Lapsed Associate Broker, Theodore, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(23)a by having entered a plea of guilty to a felony or crime involving moral turpitude.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Smith made a motion to find him guilty. Commissioner Tucker Smith seconded the motion and it passed unanimously 7-0. No fine was imposed.

David R. Bradley, Application for Determination of Licensing Eligibility (Lapsed License, Investigative File I-22-089)

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Bradley's application for determination of licensing eligibility (lapsed license), Commissioner Tucker Smith made a motion to deny his application. Commissioner Campbell seconded the motion and it passed unanimously 7-0.

Terra Alford Batain, Request for Extension of Deadline to Apply for Salesperson License, Licensing File LC2022-004

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Batain's request for an extension of the deadline to apply for her salesperson license, Commissioner Harris made a motion to approve her request and grant a 30-day extension from

notice. Commissioner Smith seconded the motion and it passed 5-2 with Commissioners Campbell and McKinney voting against the motion.

NOT APPEARINGS

Priscilla Gail Lee, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-135

Upon review and discussion of Ms. Lee's application for a real estate salesperson's temporary license, Commissioner Smith made a motion to approve her application. Commissioner Harris seconded the motion and it passed unanimously 7-0.

Andrea Petrice Walker, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-145

Upon review and discussion of Ms. Walker's application for a real estate salesperson's temporary license, Commissioner Smith made a motion to approve her application. Commissioner Harris seconded the motion and it passed unanimously 7-0.

At 1:05 p.m. Hearing Officer Jim Hampton advised Chairman Barran that the 10:30 a.m. docket and Not Appearings requests were concluded. Considering that the 10:30 docket and Not Appearings requests were complete, Chairman Barran asked for a motion for a motion to go into Executive Session for approximately 25 minutes to deliberate these cases in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9). Commissioner McKinney made a motion that Commissioners go into Executive Session in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9) for approximately 25 minutes. Commissioner Smith seconded the motion and it passed unanimously 7-0.

At 1:43 p.m. Commissioners returned with all Commissioners named during the initial 9:00 a.m. roll call present. Chairman Barran asked for a motion to return to Open Session. Commissioner McKinney made a motion to return to Open Session. Commissioner Echols seconded the motion and it passed unanimously 7-0.

Request to Approve Extension of 90-Day Deadline for June Broker, Reciprocal Broker and Reciprocal Salesperson Examinees to October 1, 2022.

Licensing Director Anthony Griffin reminded the Commissioners that 2022 is a renewal year for all licensees. Since 2002, Commissioners have approved this requested extension for the stated licensees. Upon discussion of the request to approve a 30-day extension of the 90-day deadline for June Broker, Reciprocal Broker and Reciprocal Salesperson examinees to October 1, 2022, Commissioner Smith made a motion to extend the deadline for the June examinees. Commissioner Campbell seconded the motion and it passed unanimously 7-0.

Confirm June Meeting Date and Location for the Record: June 23, 2022, 9:00 a.m. in Montgomery, Alabama.

Commissioner Smith made a motion to confirm the June meeting for June 23, 2022, at 9:00 a.m. in Montgomery, Alabama. Commissioner Campbell seconded the motion and it passed unanimously 7-0.

Next Commission Meeting: Thursday, May 19, 2022, 9:00 a.m. in Montgomery.

There being no further business, Commissioner Smith made a motion to adjourn the meeting at 1:58 p.m. Commissioner Harris seconded the motion and it passed unanimously 7-0.

Done this 21st day of April 2022.

Emmette Barran, Chairman

Barbi Lee, Recording Secretary