

MINUTES

The Alabama Real Estate Commission met at 9:00 a.m. on April 16, 2004, at the Mobile Area Association of Realtors, 2827 Airport Blvd., Mobile, Alabama.

Those present were Chairman Bill E. Poole; Vice Chairman Gordon Henderson; Commissioners Roy Bragg, Thomas Hays, Bobby Hewes, Sheila Hodges, Lyman Lovejoy, Chester Mallory; Executive Director Philip Lasater; Education Director Patricia Anderson; Legal Counsel Charles Sowell; Special Investigators David Erfman and Chuck Kelly; Auditors Athony Brown, Denise Blevins and Vickie Shackelford. Hearing Officer was Tori Adams-Burk. Commissioner Ruth Whitley was absent with notice.

Chairman Poole called the meeting to order and declared a quorum present for the conduct of business at 9:00 a.m.

Chairman Poole recognized and welcomed Commissioner Lovejoy's wife Teresa and their guests Howard and Shirley Phillips. He also thanked the Mobile Association of Realtors for use of their facility.

Commissioner Mallory moved to approve the Minutes from the March meeting as presented. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

The financial statements for March were reviewed and no action was taken.

In his report, Executive Director Philip Lasater distributed Statement of Economic Interests forms to Commissioners for submission to the Ethics Commission by April 30. Out-of-state travel approval information was presented for the Southern District meeting in Charleston June 24-26. It was reported that SB 356 passed the Senate and had moved to the House and was scheduled to come up in the House Boards and Commissions Committee on the following Tuesday.

Vickie Shackelford was introduced as the new North Alabama-based auditor.

Chairman Poole called for discussion on the correspondence from former Commissioner Bill Trick regarding proposals for amending RECAD. Following discussion, the consensus was to pursue no changes at this point supported by the belief that by and large the regulation served its larger purpose reasonably well. Chairman Poole stated he would correspond with Mr. Trick and convey the Commission's finding.

Pat Anderson, Education Director, was recognized for discussion on pending rule amendment proposals. Commissioners reiterated their interest and commitment to eliminating specified course requirements within the general 15 hour requirement. Therefore, Commissioner Bragg moved that a proposed rule amendment be filed that would provide that licensees complete 15 hours of approved elective continuing education courses. Commissioner Henderson seconded the motion and the motion passed unanimously 8-0.

HEARINGS

Alabama Real Estate Commission vs. Kimberly Bentley, Formal Complaint No. 2808

Upon discussion of the evidence and testimony presented in the matter of Kimberly Bentley, Salesperson, The Prudential Cooper and Company, Inc., 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 Hodges moved to find Ms. Bentley guilty and that she be reprimanded. Commissioner Henderson seconded the motion and the motion passed unanimously 8-0.

Alabama Real Estate Commission vs. C.D. Talley and Camellia Properties, Inc., Formal Complaint No. 2803

Upon discussion of the evidence and testimony presented in the matter of C.D. Talley, Qualifying Broker, Camellia Properties, Inc., Mobile, 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, at all times, funds coming into their possession that belong to others, Commissioner Hodges moved to find Mr. Talley guilty and that his license and that of the company be revoked. Commissioner Bragg seconded the motion and the motion passed 7-1 with Commissioner Henderson voting no.

Alabama Real Estate Commission vs. Teresa S. McKinney and Delaney Development, Inc., Formal Complaint No. 2806

Upon discussion of the evidence and testimony presented in the matter of Teresa S. McKinney, Qualifying Broker, Delaney Development, Inc., Mobile, Alabama, 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 belonged to others, Commissioner Henderson moved to dismiss Formal Complaint No. 2806. Commissioner Hewes seconded the motion and the motion passed unanimously 8-0.

Alabama Real Estate Commission vs. Janelle Z. Angel, Angel Realty, Inc., Kenneth D. Angel, Waterfront Homes and Condos, Formal Complaint No. 2801

Continued for pre-hearing motion.

Alabama Real Estate Commission vs. Ware M. Porter, Formal Complaint No. 2799

Upon discussion of the evidence and testimony presented in the matter of Ware M. Porter, Qualifying Broker, Porter Properties, Point Clear, 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 properly account for money coming into his possession that belonged to others and by failing to deposit and account for at all times funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama, Commissioner Hays moved to dismiss Formal Complaint No. 2799. Commissioner Henderson seconded the motion and the motion passed 8-0.

Ivey Elizabeth Byrd Welch, Applicant for Determination of Licensing Eligibility I-11,294

Upon discussion of Ms. Welch's eligibility for licensure, Commissioner Hays moved to approve eligibility to sit for the licensing exam upon completion of her probation period. Commissioner Henderson seconded the motion and the motion passed unanimously 8-0.

NOT APPEARING ITEMS FOR RULING

Alabama Real Estate Commission vs. Tonya R. Gex, Formal Complaint No. 2798

Upon discussion of the evidence and testimony presented in the matter of Tonya R. Gex, Inactive Salesperson, Spanish Fort, 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 Hodges moved to find Ms. Gex guilty and that she be fined \$250. Commissioner Henderson seconded the motion and the motion passed unanimously 8-0.

Carol L. Alston, Request Ruling on Qualifying Broker Status, I-11,291

Commissioner Hodges moved that Ms. Alston does not comply with requirements to serve as qualifying broker and that she has thirty days to replace the qualifying broker or appear

for a hearing. Commissioner Hewes seconded the motion and the motion passed unanimously 8-0.

Stassa Charmain Austin, Applicant for Determination of Licensing Eligibility, I-11,300

Upon discussion of Ms. Austin's eligibility for licensure, Commissioner Hodges motioned to deny the licensing eligibility of Ms. Austin. Commissioner Henderson seconded the motion and the motion passed unanimously 8-0.

Christina G. Williams, Applicant to Renew Lapsed License under Hardship, I-11,302

Upon discussion of the Ms. Williams' hardship request for license renewal, Commissioner Hodges moved to deny the hardship waiver for lapsed license and the motion failed for lack of a second. Commissioner Bragg moved to approve renewal of Ms. Williams' license. Commissioner Mallory seconded the motion and the motion passed unanimously 8-0.

Michael Perry, Applicant for Determination of Licensing Eligibility, I-11,306

Upon discussion of Mr. Perry's eligibility for licensure, Commissioner Hodges moved to approve Mr. Perry's licensure. Commissioner Bragg seconded the motion and the motion passed unanimously 8-0.

Yvonne B. Phillips, Applicant for Hardship Renewal of Lapsed License, I-11,307

Upon discussion of Ms. Phillips' hardship request for license renewal, Commissioner Lovejoy moved to approve renewal for Ms. Phillips' license. Commissioner Hewes seconded the motion and the motion passed unanimously 8-0.

Risa Pittman Hill, Request for Waiver of Rule 790-X-1.06(7), Extension of Time to Take Exam

Upon discussion of Ms. Hill's request for an extension of the 24 month deadline to take the exam, Commissioner Henderson moved that an extension be denied and Commissioner Hodges seconded the motion. The motion passed unanimously 8-0.

Gerald W. Crooks, Applicant for Determination of Licensing Eligibility, I-11,313

Upon discussion of the licensing eligibility of Mr. Crooks, Commissioner Bragg moved to deny Mr. Crooks eligibility for licensure. Commissioner Hays seconded the motion and the motion passed unanimously 8-0.

Alabama Real Estate Commission vs. Chuck Neubert, Formal Complaint No. 2811

Upon discussion of the evidence and testimony presented in the matter of Chuck Neubert, Salesperson, Pleasure Island Corporation d/b/a Meyer Real Estate, Gulf Shores, 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, checks which were returned unpaid by the bank upon which they were drawn, Commissioner Hewes moved to find Mr. Neubert guilty and that he pay a fine of \$250. Commissioner Hodges seconded and the motion passed unanimously 8-0.

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

Done this 16th day of April, 2004.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary