

## MINUTES

A meeting of the Alabama Real Estate Commission was held April 4, 2008, at 1201 Carmichael Way, Montgomery, Alabama.

The meeting having been duly noticed in accordance with the Open Meetings Act was called to order at 9:00 AM by Chairman Henderson.

Those present were Chairman Gordon Henderson; Vice Chair Sheila Hodges; Commissioners Jewel Buford, Steve Cawthon, Bobby Hewes, 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, Phillip Bunch and K.C. Baldwin and Hearing Officer Tori Adams. Commissioner Mallory was absent with prior notice.

Commissioner Morris moved to approve the March 2008 meeting Minutes subject to amending the motion on Mr. Pinion to read "guilty on all three counts". Commissioner Hewes seconded the motion and it passed unanimously 8-0.

The March financial statements were not prepared for this meeting and will be posted on the Commission website when ready.

Executive Director Philip Lasater gave a legislative report that included the Commission Sunset bill being enacted awaiting the Governor's signature, at which time it will become effective. HB 331 is postured for passage and enactment by the Senate when they begin more calendar work. SB 508 would establish a separate Administrative Law Judge Agency.

Mr. Lasater provided an overview of potential implications to real estate licensing jurisdiction in proposed amendments to the Auctioneer Licensing Board. General Counsel Charles Sowell provided more detailed analysis. A definition for auction and a stated exception to real property was agreed to by Commission and AAR leadership. Lobbyist advocating for the unqualified exemption of any type transaction on an interactive internet site had countered with alternative language. After consideration and discussion by commissioners, Commissioner Watts moved for AREC to continue holding on the original proposal of the definition and to communicate immediately to AAR its resolve. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Chairman Henderson further instructed the Executive Director and General Counsel to engage in any other conversation with authorization to agree to any language that accomplishes the stated position of the Commission.

Education Director Ryan Adair and Assistant Director Pat Anderson provided an overview of proposed education rule amendments that will update rules to policy and practice. This initiates the administrative rule making process. No further action was required.

Upon the call of the Chair, the Commission voiced its consensus to hold its deliberations in open meeting.

### HEARINGS AND APPEARINGS

#### **Philip M. (Matt) Sankey, Applicant for Broker's License, I-12,616**

Upon discussion of Mr. Sankey's request for additional time to apply for an original salespersons license, The hearing was continued at the request of Mr. Sankey.

#### **Lamarr S. Gullap, Applicant for Salesperson's Temporary License, I-12,603**

Upon discussion of Mr. Gullap's request for temporary salespersons license approval, Commissioner Hodges moved to approve the temporary sales license of Mr. Gullap. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Elizabeth Westbrook, Formal Complaint No. 3065**

Upon discussion of the evidence and testimony presented in the matter of Elizabeth Westbrook, temporary salesperson, Courtesy Realty, Montgomery, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(1) by procuring or attempting to procure a license for himself/herself or another, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact on an application for a license, Commissioner Morris moved to find Ms. Westbrook not guilty on count # 1. Commissioner Hodges seconded the motion and it passed unanimously 8-0. Commissioner Hodges moved to deny the license eligibility of Ms. Westbrook. Commissioner Morris seconded the motion and it passed unanimously 8-0.

**Walter Berry, Applicant for Vacation Timeshare Sales License, I-12,632**

Upon discussion of Mr. Berry's eligibility for obtaining a vacation timeshare license, Commissioner Hodges moved to deny the application for Vacation Time Share license to Mr. Berry. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Renae Jones and Theresa L. Simon, Formal Complaint No. 3063**

Upon discussion of the evidence and testimony presented in the matter of Renae Jones, Associate Broker, and Theresa L. Simon, Salesperson, ABC Realty, LLC, Decatur, Alabama, and the alleged violation of Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(2) in that Respondent Jones engaged in misrepresentation or dishonest or fraudulent acts when selling, buying, trading or renting real property of his or her own or of a spouse, child or parent; Count 2: Section 34-27-36(a)(21) in that Respondents Jones and Simon misrepresented or failed to disclose to any lender, guaranteeing agency or other interested party the true terms of a sale of real estate by failing to inform the principals of the contract substitution and the repayment to the buyer, Commissioner Hodges moved to find Ms. Jones and Ms. Simon guilty on counts 1 and 2 and to revoke their broker and salesperson license respectively. Commissioner Watts seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Elizabeth D. Boyd; Liz Boyd Associates Real Estate LLC; All Seasons GMAC Real Estate; ACRE Real Estate Company; ACRE GMAC Real Estate Company, Formal Complaint No. 3067**

Upon discussion of the evidence and testimony presented in the matter of Elizabeth D. Boyd, Qualifying Broker, All Seasons GMAC Real Estate, 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 account for money coming into Respondent's 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; Count 2: Section 34-27-36(a)(19) by failing to comply with AREC Rule 790-X-3-.03(4) in that funds to be held in trust under a contract for sale involving more than one qualifying broker shall be held and deposited by any of the qualifying brokers involved in the sale. All funds to be held in trust, whether by contract for sale or by lease or property management agreement, shall be held and deposited by the qualifying broker who is providing these services to the owner. **In cases where a successor qualifying broker is to provide these services, the first broker shall provide a complete accounting of the funds and shall transfer the funds to the successor broker.** The qualifying broker who is currently providing services to the owner shall be responsible to the public and to the Commission for all funds. Upon request by the Commission or its authorized representative, each qualifying broker shall properly account for any trust funds being held by that qualifying broker. Respondents, rather than account for the funds and transfer the funds to the new broker, reported that these trust funds had been spent. Commissioner Hodges moved to find Ms. Boyd guilty on counts 1 and 2 and to revoke her broker license. Commissioner Watts seconded the motion and it passed unanimously 8-0.

**Louise Crow, Applicant for Salesperson's Temporary License, I-12,644**

Upon review of Ms. Crow's testimony regarding a felony or misdemeanor, Commissioner Morris moved to approve the temporary salesperson license of Ms. Crow. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

**Tamara Franklin, Applicant for Original Salesperson's License, I-12,646**

Upon discussion of Mr. Franklin's lapsed temporary license and his request that he permitted to apply for an original salespersons license, Commissioner Watts moved to approve the application for issuance of Ms. Franklin's original salesperson license. Commissioner Hewes seconded the motion and it passed 7-1 with Commissioner Cawthon voting no.

NOT APPEARINGS

**Jessica Ashlie Woodruff, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3060**

Upon discussion of the evidence and testimony presented in the matter of Jessica Ashlie Woodruff, Exit Realty of the Valley, LLC, 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 for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Hodges moved to dismiss Formal Complaint # 3060. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

**Donna C. White, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3056**

Upon discussion of the evidence and testimony presented in the matter of Donna C. White, Qualifying Broker, Wyndham Vacation Reports, 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 Hodges moved to find Ms. White guilty and to fine her \$250. Commissioner Morris seconded the motion and it passed unanimously 8-0.

**Tina Hunt, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3062**

Upon discussion of the evidence and testimony presented in the matter of Tina Hunt, Salesperson, Hunter Communities, Inc., d/b/a Hunter Homes, 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 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. Hunt guilty and to fine her \$250. Commissioner Watts seconded the motion and it passed unanimously 8-0.

**Fred Lee Reed, Determination of Licensing Eligibility, I-12,669**

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

**Melody McGuire, Conviction Discovered After Temporary Salesperson License Issuance, I-12,671**

Upon discussion of the issuance of Ms. McGuire's temporary salespersons license and her failure to disclose a prior conviction, Commissioner Hewes moved to approve the temporary sales license issued to Ms. McGuire. Commissioner Riggins seconded the motion and it passed 7-1 with Commissioner Morris voting no.

**Veronica Laster, Requesting Extension to Complete Salespersons Prelicense Course, I-12,672**

Upon discussion of Ms. Laster's debilitating physical condition which resulted in her failing to complete the 60 hour pre-license course by the deadline given, Commissioner Watts moved to approve the requested extension. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

**Joseph Snell, Requesting Extension for Taking Salespersons Examination, I-12,673**

Upon review of the request by Mr. Snell for additional time to pass the salespersons pre-license exam, Commissioner Watts moved to approve the requested extension. Commissioner Morris seconded the motion and it passed unanimously 8-0.

**Blake Hall, Requesting Extension for Taking Salespersons Examination, I-12,679**

Upon review of Mr. Hall's request for a 90 day extension to take and pass the real estate exam, Commissioner Hewes moved to approve a 90 day extension to take the salesperson examination. Commissioner Morris seconded the motion and it passed unanimously 8-0.

**Tiajuana Dedeaux, Applicant for Salesperson's Temporary License, I-12,622**

Upon review of the salesperson's temporary license application submitted by Ms. Dedeaux, Commissioner Watts moved to deny the application for a salesperson license. Commissioner Morris seconded the motion and it passed unanimously 8-0.

**James Louder, Original Salespersons License, I-12,686**

Upon discussion of Mr. Louder's request for a hardship extension to applying for the original salespersons license, Commissioner Watts moved to approve the issuance of his salesperson license. Commissioner Morris seconded the motion and it passed unanimously 8-0.

**Lisa R. Jeffrey, Request to Void License and Dismiss Formal Complaint No. 3066**

Upon consideration of Ms. Jeffrey's request that her reciprocal salespersons license be voided and that the formal complaint be withdrawn, Commissioner Hodges moved to re-affirm the filing of Formal Complaint #3006. Commissioner Cawthon seconded the motion and it passed 6-2 with Commissioners Watts and Morris voting no.

There being no further business, the meeting adjourned at 1:05 p.m.

Done this 4<sup>th</sup> day of April, 2008.

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Gordon Henderson, Chairman

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D. Philip Lasater, Recording Secretary