

MINUTES

A meeting of the Alabama Real Estate Commission was held August 19, 2021 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 Chairman Carole Harrison at 9:00 a.m.

Chairman Harrison called the roll and the following Commissioners indicated their presence with a spoken "present": Vice Chairman Reid Cummings, Commissioners Emmette Barran, Jimmie Ann Campbell, Joyce Harris and Terri May. Vice Chairman Reid Cummings and Commissioner Terri May participated virtually. A quorum was declared. Commissioner Susan Smith was absent with notice. The seats for the Sixth and Seventh Congressional Districts are currently vacant.

Commission staff members in attendance or participating via VTC for all or part of the meeting were 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; Communications and Public Relations Director Vernita Oliver-Lane; Communications and Public Relations Specialist Senior Lori Moneyham; State Professional Trainee Jess Sparks; Education Director Ryan Adair; Education Specialist Pam Oates; Accounting and Personnel Director Molli Jones; Auditor Vickie Shackelford; Information Technology Director Brett Scott; Information Technology Systems Specialist Steven Brown; Licensing Director Anthony Griffin; Licensing Assistants Edward Arrington, Amber Green and Pam Taylor; 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 July 22, 2021 Commission meeting. Commissioner Harris seconded the motion and it passed unanimously 6-0.

Chairman Harrison announced that Executive Director Vaughn Poe was participating in the Sunset Review this morning before the Joint Interim Sunset Committee and Assistant Executive Director Teresa Hoffman would be presenting the Executive Director's Report and Financial Review.

EXECUTIVE DIRECTOR'S REPORT

Assistant Executive Director Teresa Hoffman presented the July 2021 financial reports and gave commissioners an update on revenues and expenditures in the operating and recovery fund accounts. She stated the Commission remains vigilant and have maintained the operating balances well within margins that have protected us against unfunded mandates and unexpected pandemics.

She also stated that the processes and accountability have been consistently reviewed and declared compliant by the Examiners of Public Accounts as seen, again, in their current report. The yearly compliance audits and appearances before the Sunset Committee are verification and recognition of how well the Commission is taking care of the people's resources. The operating balances are on target and there have been no payments from the recovery fund in the past 120 days. Long-term investments are close to projections.

Assistant Director Hoffman reminded everyone that the Commission is not a general fund agency. While the Commission is audited and the budget and spending authority are controlled by the Alabama Legislature, our fiscal existence is the Commission's responsibility. There are no general fund dollars to draw from nor do we receive any tax dollars. The Commission does help sustain the general fund by paying other state agencies for services. So far for fiscal year 2021, \$539,485.95 has been paid to other state agencies.

Assistant Director Hoffman explained there is a 10% attrition rate budgeted each license renewal cycle. Currently, there are 3,959 non-renewed licensees; however, this year's expected attrition has been covered with the addition of 5,801 new licensees since October 1, 2020. The Commission has issued 39,674 total licenses and of that 4,877 are licensed companies or branches.

Assistant Director Hoffman stated the Accounting Division reported that 18 general audits were completed in July, including in-person and desk audits. To date, 27 companies have requested assistance visits and 17 have been completed. She explained this is the epitome of the Commission's philosophy to educate when we can, discipline only when we must.

Chairman Harrison asked what kind of assistance is being requested in the assistance visits. Accounting and Personnel Director Molli Jones provided an explanation stating that an auditor will meet with the qualifying broker of the company in person or virtually and perform a basic audit review of the operations including signage, licenses, RECAD, pending files, closed files, property management, trust accounts and general office procedures. Commissioner Barran expressed his approval of this service being provided.

Assistant Director Hoffman reminded Commissioners there was about six weeks remaining for renewal of Education licenses. There are 842 total education licensees with 301 renewed (36%). There are 171 approved courses – 27 are for classroom and 144 (84%) are distant education courses. The distance education courses have been certified by the Association of Real Estate License Law Officials (ARELLO®) and the International Distance Education Certification Center (IDECC) and are not the courses exercising the grace period that the Commission granted due to the pandemic. Having 144 distance education courses, indicates that it is possible to design classes and teach to recognized standards becoming certified in the Alabama market. The Education Division completed four audits during the month of July.

Assistant Director Hoffman gave an update on the Communications and Public Relations Division. She stated Briefly Legal Facebook Live was well attended on August 11, 2021 with 82

viewers and had been viewed over 530 times. Coffee with the Commission had 75 participants on August 18, 2021 and Executive Director Poe covered education renewal deadline, assistance visits, broken contracts with wholesalers, flat fee brokering, for sale by owner, and limited-service contracts. Questions from the audience included increasing experience and education requirements for brokers. Coffee with the Commission has received many compliments from licensees who have watched. Assistant Director Hoffman expressed her appreciation to Chairman Harrison and Commissioner Campbell for their participation and support. Ms. Hoffman stated the communications and public relations team does a wonderful job promoting both of these programs, contributing to the growing attendance. The team is also exploring methods to capture the Briefly Legal Facebook Live interactions so they may be archived on the Commission's website to serve as a resource. Assistant Director Hoffman stated that interactions on any platform were a win for licensees, consumers and the Commission.

Chairman Harrison stated she believes the increasing number of participants watching both live events has to do with the fact that licensees think the Commission is more approachable now than in the past.

Assistant Director Hoffman discussed the IT and Legal Divisions next. She stated the IT staff is essential and involved in everything, every day by performing thousands of tasks to keep the Commission operational and moving forward. The Legal Division fielded 630 telephone calls, performed 169 criminal background checks, and investigated 61 complaints - with 32 of those moving forward to a formal investigation - during the month of July.

Assistant Director Hoffman gave each Division Director and their team special recognition for their specific roles, contributions to and pride in the Commission.

Assistant Director Hoffman reminded commissioners of upcoming ARELLO® meetings. The ARELLO® 2021 Annual Conference will be held September 15-19 in Orlando, Florida. In conjunction with the Conference, *Commissioner College 102* will be held on September 19. The registration deadline is Friday, August 27. The 2021 ARELLO® Regulatory Investigations Seminar (ARIS) will be held October 5-8 in Birmingham, Alabama. Alabama is the host state for this year's seminar and staff will be assisting the ARELLO® team. The 2022 Mid-Year meeting in the spring will be held in Savannah, Georgia and the Annual meeting in the fall will be in Nashville, Tennessee. Additional information will be given when available.

COMMISSIONER DISCUSSION

1. Proposed 2022 Commission Meeting Dates

Chairman Harrison advised Commissioners that the 2022 calendar with proposed meeting dates was included in the packet. She asked that everyone look at these dates for the upcoming year and plan to finalize at the October meeting.

2. Discussion and Approval of Policy Memorandum Number One

Assistant Director Hoffman explained the purpose of policy memorandums as instituting a new resource for licensees and the public. The intent is to develop a body of policies and interpretations that the Commission has made consistently over the years and publish it for licensees with other legal information on the Commission's website. These are not legally binding, it is not a law nor a regulation, it is simply guidance for licensees.

The first policy memorandum makes the commitment to the Alabama Legislature that the Commission will not do a "political call to action" using the Commission's internal resources but instead will work through issues using other diplomatic means.

Upon discussion of Policy Memorandum Number One, Commissioner Barran made a motion to adopt Policy Memorandum Number One. Commissioner Campbell seconded the motion and it passed unanimously 6-0.

Commissioner Barran made a motion that Commissioners conduct disciplinary hearing disposition discussions in an open meeting. Commissioner Campbell seconded the motion and it passed unanimously 6-0.

HEARINGS

Alabama Real Estate Commission VS. John A. Elkington, Formal Complaint No. 3555

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

John A. Elkington, Qualifying Broker, Germantown, Tennessee was charged with **Two Counts** of 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 and testimony presented in the matter, on **Count 1**, Vice Chairman Cummings made a motion to accept Mr. Elkington's guilty plea. Commissioner Barran seconded the motion and it passed unanimously 6-0. Commissioner Harris made a motion to fine Mr. Elkington \$500. Vice Chairman Cummings seconded the motion and it passed unanimously 6-0. Regarding **Count 2**, Vice Chairman Cummings made a motion to accept Mr. Elkington's guilty plea. Commissioner Barran seconded the motion and it passed unanimously 6-0. Commissioner Campbell made a motion to fine Mr. Elkington \$250. Commissioner Barran seconded the motion and it passed unanimously 6-0.

Amber Nicole Collett, Application for Determination of Licensing Eligibility, Investigative File I-21-189

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Collett's application for determination of licensing eligibility, Vice Chairman Cummings made a motion to approve her application. Commissioner May seconded the motion and it passed unanimously 6-0.

Teritta Hamilton, Application for Determination of Licensing Eligibility, Investigative File I-21-239

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Hamilton's application for determination of licensing eligibility, Commissioner Campbell made a motion to approve her application, upon full payment of pending fine. Commissioner Barran seconded the motion and it passed unanimously 6-0.

Luke Goubeaud, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-276

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Goubeaud's application for a real estate salesperson's temporary license, Commissioner Barran made a motion to approve his application. Commissioner Harris seconded the motion and it passed unanimously 6-0.

Ashley Irias, Application for Determination of Licensing Eligibility, Investigative File I-21-258

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Irias' application for determination of licensing eligibility, Commissioner Harris made a motion to approve her application. Commissioner Barran seconded the motion and it passed unanimously 6-0.

Alabama Real Estate Commission VS. Robin Denae Roberson, Formal Complaint No. 3556

General Counsel Starla Van Steenis stated this case was being dismissed as Ms. Roberson's bank provided a letter to the Commission stating the returned check was no fault of Ms. Roberson.

Bridgett Hooks, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-242

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Hooks' application for a real estate salesperson's temporary license, Commissioner Harris made a motion to approve her application. Commissioner Barran seconded the motion and it passed unanimously 6-0.

Alabama Real Estate Commission VS. Joseph P. Long, Qualifying Broker, Payton Auburn Realty LLC d/b/a Real Estate Services Auburn Opelika AND Joseph P. Long, Qualifying Broker, Payton Realty Inc. AND Joseph P. Long d/b/a Joseph Long, Formal Complaint No. 3557

This hearing was continued until October 14, 2021.

Sonya Graham, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-212

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Graham's application for a real estate salesperson's temporary license, Commissioner Barran made a motion to approve her application pending payment of her \$85 fine balance or documentation from the court showing there is no balance due. Commissioner Harris seconded the motion and it passed unanimously 6-0.

Phillip Chenault, Application for Determination of Licensing Eligibility, Investigative File I-21-228

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Chenault's application for determination of licensing eligibility, Vice Chairman Cummings made a motion to approve his application. Commissioner Harris seconded the motion and it passed unanimously 6-0.

David James Mears, Application for Determination of Licensing Eligibility, Investigative File I-21-227

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Mears' application for determination of licensing eligibility, Commissioner Campbell made a motion to approve his application upon full payment of fines and from the end of his probation. Commissioner Barran seconded the motion and it passed 5-1 with Commissioner Harris voting against the motion.

NOT APPEARINGS

Brittany Foxworth, Application for Determination of Licensing Eligibility, Investigative File I-21-266

Upon review and discussion of Ms. Foxworth's application for determination of licensing eligibility, Commissioner Barran made a motion to approve her application. Commission Campbell seconded the motion and it passed unanimously 6-0.

Valarie Wan-Sak, Application for Real Estate Salesperson's Reciprocal License, Investigative File I-21-269

Upon review and discussion of Ms. Wan-Sak's application for a real estate salesperson's reciprocal license, Commissioner Campbell made a motion to approve her application. Commissioner Harris seconded the motion and it passed unanimously 6-0.

Belgee Chandler, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-280

Upon review and discussion of Ms. Chandler's application for real estate salesperson's temporary license, Commissioner Barran made a motion to approve her application. Commissioner Harris seconded the motion and it passed unanimously 6-0.

Confirm October Meeting Date and Location for the Record: October 14, 2021, 9:00 a.m. in Montgomery, Alabama.

Commissioner Harris made a motion to confirm the October meeting for October 14, 2021 at 9:00 a.m. in Montgomery, Alabama. Commissioner Barran seconded the motion and it passed unanimously 6-0.

Next Commission Meeting: Thursday, September 23, 2021, 9:00 a.m. in Montgomery.

There being no further business, Commissioner Barran made a motion to adjourn the meeting at 11:26 a.m. Commissioner Harris seconded the motion and it passed unanimously 6-0.

Done this 19th day of August 2021.

Carole Harrison, Chairman

Barbi Lee, Recording Secretary