

MINUTES

The Alabama Real Estate Commission met August 24, 2007 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Poole; Vice Chair Sheila Hodges; Commissioners Jewel Buford, Gordon Henderson, Bobby Hewes, Chester Mallory, Jan Morris 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. Tori Adams served as Hearing Officer. Commissioner Dorothy Riggins was absent with notice.

Chairman Poole welcomed incoming Commissioner Steve Cawthon who was present to observe. Also welcomed was guest attendee Susan Hawkins.

Commissioner Mallory moved to approve the July 20 meeting minutes as presented. Commissioner Morris seconded the motion and it passed unanimously 8-0.

The July financial statements were reviewed with no action taken.

Philip Lasater was recognized for the Executive Director's report. New Information Specialist Lori Moneyham was introduced and welcomed. The result of the bid opening for contractors on the final phase of the Commission's building upgrade was shared. Bids were opened at the Commission office on Tuesday, August 21 by Ray Williams of Barganier, Davis and Sims Architects. There were five bids submitted. Alfa Builders of Montgomery was low bid at \$183,000. Commissioner Hodges moved to approve entering a contract for completion of the scope of work as outlined in bid specifications. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Following a report on staff participation in IT Strategic Planning with ISD and Finance, it was the consensus of the Commission that staff undertake review of license law for aspects and elements that need contemporizing to allow integration of technology into license issuance and certain business practice. The highlighted areas will be brought to the Commission for review and further consideration for any additional action.

Commissioner Bill Watts and incoming Commissioner Steve Cawthon participated in a new commissioner orientation the afternoon prior to the commission meeting.

Special Issues Task Force

Commissioner Morris moved to approve recommendations. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Communications Committee

Commissioner Mallory moved to approve the outlined expenditures of \$250,000. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

Commissioners Hodges, Mallory and Morris reported on the highlights of the ARELLO District meeting they attended in New Orleans the last week in July.

HEARINGS

Alabama Real Estate Commission vs. Earl B. Wise, Formal Complaint No. 3016

Upon discussion of the evidence and testimony presented in the matter of Earl B. Wise, Salesperson, Prattville Real Estate Group, LLC, d/b/a RE/MAX Properties, Prattville, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(21) by misrepresenting or failing to disclose to lender, guaranteeing agency, or other interested party (the seller in this case) the true terms of a sale of real estate by failing to disclose the fact that Diane Edwards was receiving funds from the closing of this real estate sales transaction; Count 2: Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.04(2) by failing to prepare and furnish to the seller at the time Mr. Harris' offer was presented an estimated closing statement; Count 3: Section 34-27-36(a)(19) by failing to comply with Rule 790-X-3.04(2) by failing to see that the seller was furnished an actual detailed closing statement showing all receipts and disbursements at the time the sale was closed, including the payment to Diane Edwards; and Count 4: Section 34-27-36(a)(26) by demonstrating conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness by directing a payment from seller's closing funds to an unlicensed person at closing and by failing to reveal this payment to his seller.

Commissioner Hodges moved to find Mr. Wise not guilty on count #1. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

Commissioner Hodges moved to find Mr. Wise guilty on count #2 and fine him \$500. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Commissioner Hodges moved to find Mr. Wise not guilty on count #3. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

Commissioner Hodges moved to find Mr. Wise guilty on count #4 and to fine him \$1000. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Joe P. Harwell, Formal Complaint No. 3015

Upon discussion of the evidence and testimony presented in the matter of Joe P. Harwell, Qualifying Broker and Annette DeVaughn, Salesperson, Metro Realty, Inc., d/b/a Metro Realty Wetumpka, Wetumpka Branch Office, Wetumpka, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Respondent DeVaughn violated Section 34-27-82(c), Commission Rule 790-X-3-.13 by failing to provide consumer with a Real Estate Brokerage Services Disclosure Form and failing to inform same about specific types of brokerage services provided by her company; Count 2: Respondent Harwell violated Section 34-27-34(a)(2) by failing to see that licensee DeVaughn provided consumer with the Real Estate Brokerage Services Disclosure Form and by failing to inform consumer of specific types of brokerage services provided by her company; Count 3: Respondent Harwell violated Section 34-27-35(a)(1) and (2) by failing to loyally represent the best

interest of his client and failing to disclose to her that licensee DeVaughn was licensed under him and that DeVaughn was making an offer on the same property consumer was interested in.

Commissioner Morris moved to find Ms. DeVaughn not guilty on count #1. Commissioner Mallory seconded the motion and it passed 7-1 with Commissioner Henderson voting no.

Commissioner Mallory moved to find Mr. Harwell not guilty on count #2. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

Commissioner Henderson moved to find Mr. Harwell guilty and to fine him \$500. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

Commissioner Mallory made a motion to reconsider the previous motion. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Commissioner Henderson moved to reaffirm the previous action and Commissioner Watts seconded the motion and it passed 7-1 with Commissioner Mallory voting no.

Dinah Dee Hill, Application for Salesperson's Temporary License, I-12,385

Dinah Dee Hill Continued

Darrel Pierre McTerry, Application for Determination of Licensing Eligibility, I-12,349

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

Alabama Real Estate Commission vs. Scott Myrick, Formal Complaint No. 3019

Upon discussion of the evidence and testimony presented by Scott Myrick, Inactive Salesperson, Gulf Shores, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to comply with Section 34-27-31(j) in his failure to notify the Commission within ten days of the institution of criminal charges in Troup County Georgia and Montgomery County Alabama; Count 2: Section 34-27-36(a)(23)a. by entering a plea of guilty or nolo contendere to, or having been found guilty of a felony or of a crime involving moral turpitude in Troup County Georgia and Montgomery County Alabama.

Commissioner Hodges moved to find Mr. Myrick guilty on count #1 and to find him \$250. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Commissioner Hodges moved to find Mr. Myrick guilty and to suspend his license for six months. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

Kelly Gadson III, Applicant for Salesperson Temporary License, I-12,408

Upon review of the application for temporary salesperson's license submitted by Mr. Gadson, Commissioner Hodges moved to approve the temporary sales application of Mr. Gadson. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

Justin Paul Parker, Applicant for Determination of Licensing Eligibility, I-12,408

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

NOT APPEARINGS

Liesl Schutt, Dismissal of Formal Complaint due to Bank Error, Formal Complaint No. 3018

Upon discussion of the mitigating circumstances presented from the bank which acknowledged its error, Commissioner Hewes moved to dismiss Formal Complaint #3018. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

Ruhua Huang, Application for Determination of Eligibility, I-12,412

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

Charles B. Christian, Waiver of Hearing and Guilty Pleas, Formal Complaint No. 3017

Upon discussion of the evidence and testimony presented in the matter of Charles B. Christian, Qualifying Broker, The Christian Company, Inc., d/b/a Paradise Realty Development, Orange Beach, 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 Hewes moved to find Mr. Christian guilty and to fine him \$250. Commissioner Buford seconded the motion and it passed 7-0 with Commissioner Mallory abstained.

Jessica Tanner Moore, Application for Salesperson's Temporary License, I-12,432

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

Danny Williams and Frank Peoples, Disbursement Authorization, I-12,434

Upon review of the letter sent by Danny Williams and Frank Peoples of Keller Williams Realty Mobile requesting that a "disbursement authorization" be approved so that

commissions can be disbursed by the closing agent directly to sales associates instead of through the broker, Commissioner Hodges moved to deny the request for ruling on an alternative disbursement authorization. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 1:35 p.m.

Done this 24th day of August, 2007.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary