

MINUTES

The Alabama Real Estate Commission met August 14, 2009, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Vice Chair Jewel Buford; Commissioners Steve Cawthon, Bobby Hewes, Clif Miller, Jan Morris, Dorothy Riggins-Allen, Bill Watts and Nancy Wright; Executive Director Philip Lasater; Deputy Attorney General Charles Sowell; Assistant Attorney General Chris Booth; Education Director Ryan Adair; Investigators David Erfman, Chuck Kelly, and Phillip Bunch. Hearing Officer was Tori Adams. Chairman Hodges was absent with notice.

Other staff members present were Public Information Manager Vernita Oliver-Lane; Public Information Specialist Lori Moneyham; Senior Accountant Molli Jones; Education Specialist Julie Norris; Education Specialist Pam Oates; Information Technology Manager Nancy Barfield, and Assistant Information Technology Manager Brett Scott.

The meeting having been duly noticed according to the Open Meetings Act, Vice Chairman Buford called the Commission to order at 9:00 a.m.

Commissioner Morris moved to approve the July 24, 2009, minutes as presented. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Mr. Lasater reviewed the July financial report and noting a variance between the comparative prior year to current offered several factors contributing to changes to the in-state travel line item. In-state travel is higher in 2009 than in 2008 due to variables in mileage rates and the way meetings were scheduled this year versus 2008. The in-state travel line item has been broken down into categories for clarity.

Mr. Lasater reported to Commissioners that we are in the process of acquiring laptops for Commissioner use during meetings. The IT Division is researching whether there are options that will allow Commissioners to make notes electronically on the pages of their packet. Manila folders will no longer be prepared in advance or distributed. Beginning with the September packets, Commissioners will have the option of receiving notebooks in the mail or downloading their packets from the Commissioner Web site. Commissioners will then bring their notebooks or downloaded packets with them to the meeting. Commissioners Morris, Watts, Wright, Cawthon, and Buford indicated that they would like to download their packets from the Web site and not have a notebook shipped. By November either Laptops or Notebooks as elected by each Commissioner and his or her preference will be provided at the meeting. Commissioners will have the option of working with only the notebooks or the laptops as they may choose.

Commissioner Riggins-Allen arrived during the Executive Director's report.

Mr. Lasater directed Commissioners to the Guidelines for Minutes Advisory from Examiners of Public Accounts. He explained that the guidelines call for a recorded vote by Commissioners on revenue expenditures and contract approvals, votes to go into an executive session, and votes on budget approval will require a roll call.

Having had several Commissioners call attention to scheduling conflicts for the November meeting, Mr. Lasater discussed the option of rescheduling the November 6 Commission meeting. The dates October 30 and November 20 were presented as options. Commissioner Wright made a motion to move the meeting to November 20. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Education Director Ryan Adair presented the Rule Amendments for adoption. Mr. Adair discussed a proposed amendment to Rule 790-X-1-.15. The proposal was to exempt real estate schools from having to place the school's license number on their signage. Instead, this matter will be covered under Section 34-27-6(f) which provides guidelines for proper school signage. The intent of the Rule amendment was not to require schools to add a license number to permanent signage. Commissioner Morris made a motion to adopt Rules 790-X-1-.11, 790-X-1-.12, 790-X-1-.17, and 790-X-1-.21 as filed and adopt Rules 790-X-1-.06, 790-X-1-.10, 790-X-1-.15, 790-X-1-.16, 790-X-1-.18 and 790-X-2-.02 with amendments as discussed. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Commissioner Morris provided an update on the Community Association Managers Task Force. The Task Force is working on drafting their bill for the next legislative session. There will be a four-hour meeting with the AAR task force on September 10, 2009, at 1:00 p.m.

Commissioner Cawthon provided the names of the members of AAR's task force: Leonard Kaiser, Kaiser Realty, Inc. (Gulf Shores); Stacey Salatto, Porter Residential, LLC (Auburn); Jimmy Grant, Grant Realty (Dothan); Sherry Dinges, Realty Executives (Huntsville); Iris Hinton, Re/Max Premier Group (Northport); and Chris McDuff, Daniel Realty Corp. (Birmingham). All Commissioners are invited to attend the meeting. The focus of that meeting will be on developing a timeline to present a report to the AAR Governmental Affairs Committee and proceed with drafting a bill. The members of the Community Association Task Force are Commissioners Watts, Cawthon, and Morris.

Commissioner Morris also encouraged the Commissioners to attend the ARELLO Conference in Miami to support Assistant Executive Director Pat Anderson who has been nominated to represent the Southern District on the ARELLO Board of Directors. The vote will be held during the General Assembly on October 23 at 3:45 p.m.

Commissioner Morris also acknowledged the sudden passing of Pat Anderson's niece during the week of August 10, 2009.

Commissioner Morris made a motion to conduct the disciplinary hearing disposition discussions in open session. The motion was seconded by Commissioner Wright and it passed unanimously 8-0.

HEARINGS AND APPEARINGS

Laurinia Parker, Request for Extension to Complete the Real Estate Pre-License Course, Investigative File I-13,009

Ms. Parker failed to show for her hearing even though several notices have been sent to her. The hearing proceeded in her absence. Upon review of Ms. Parker's request for additional time to complete the salesperson's pre-license course, Commissioner Morris made a motion to deny her request. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Linda H. Evans, Formal Complaint No. 3149

Upon review of the evidence and testimony presented in the matter of Linda H. Evans, Qualifying Broker, Linda Evans Realty, Moulton, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.01, in that Respondent failed to notify the Commission in writing within thirty (30) days of having moved her place of business, Commissioner Morris made a motion to find her guilty and fine her \$250. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Dana R. Dyer, Formal Complaint No. 3148

Dana R. Dyer, Inactive Salesperson, Dothan, Alabama, was scheduled to appear before the Commission on the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(23)a. by having entered a plea of guilty or nolo contendere to, or having been found guilty of a felony or a crime involving moral turpitude. She did not appear and was to mail an affidavit stating that she will definitely attend the September 11 Commission meeting, but the affidavit had not been received as of August 12. Since Ms. Dyer had informed Chief Investigator David Erfman by telephone that she would mail the affidavit, the Hearing Officer recommended that the hearing be postponed to allow time for the affidavit to arrive. General Counsel Charles Sowell confirmed with the Hearing Officer that service had been satisfactorily accomplished and that Ms. Dyer's hearing will be continued until the September 11 meeting and would be conducted with her present or in her absence.

Clifton Holt, Applicant for Original Salesperson's License After Temporary Salesperson's License Lapsed, Investigative File I-13,137

Upon review and discussion of Mr. Holt's request for the Commission's consideration in allowing him to apply for the original salesperson's license after his temporary license lapsed, Commissioner Watts moved to allow a 60-day extension. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR RULING

Examiner Audit Finding on List Fee

Mr. Lasater explained the need to appeal the finding or amend the policy to charge \$100 which has been in effect since 1990. The Examiners of Public Accounts expects a fee of a lesser amount or an offering of the list(s) for free. In view of the fact that the lists do not exist except at the request of entities for their convenience and use and are not a direct by product of Commission work or process an alternative was suggested. Alternatively, the Commission may consider the lists “official records” and in accordance with 34-27-32(k) levy a \$10 fee for each list request. General Counsel Charles Sowell confirmed the appropriate application of the provision to the circumstances. Commissioner Morris made a motion to comply with the Examiners finding and amend the charge of \$100 to \$10 for the list(s). Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

Christie Black-Reese, Waiver of Hearing and Guilty Plea (Change of Address), Formal Complaint No. 3151

Upon review of the evidence presented in the matter of Christie Black-Reese, Qualifying Broker, Crystal Properties, LLC, Montgomery, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.01, in that Respondent failed to notify the Commission in writing within thirty (30) days after moving her office location, Commissioner Morris made a motion to find her guilty and fine her \$250. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Terrica N. McCaskill, Request for Extension to Take the Salesperson’s Examination (I-13,155)

Upon review of Ms. McCaskill’s request for additional time to pass the salesperson’s examination, Commissioner Watts made a motion to deny her request. Commissioner Cawthon seconded the motion. The motion passed 7-1 with Commissioner Morris voting no.

Allison Wood, Request for Extension to File Application for Original Salesperson’s License, Investigative File I-13,158

Upon review of Ms. Wood’s request for additional time to complete the 30 hour post license course and submit application for the original salesperson’s license, Commissioner Watts made a motion to grant her a 90-day extension from the date of the Commission action. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Confirm September 11, 2009 Meeting Date and Location for the Record

Commissioner Watts made a motion to confirm September 11 as the next Commission meeting date. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Darmita Flood, Request for Extension to Take the Salesperson’s Examination, Investigative File I-12,765

Upon review of Ms. Flood’s request for another extension to take and pass the salesperson’s exam, Commissioner Cawthon made a motion to deny her request. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Randall L. Raney, Request for Extension to File Application for the Original Salesperson’s License, Investigative File I-13,165

Upon review of Mr. Raney’s request to submit application for an original salesperson’s license, Commissioner Watts made a motion to grant him a 60-day extension. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Michael Hunter Townsend, Application for Determination of Licensing Eligibility, Investigative File I-13,167

Upon review and discussion of Mr. Townsend's application for determination of eligibility for licensure, Commissioner Hewes made a motion to approve his request. Commissioner Miller seconded the motion and it passed unanimously 8-0.

John Baskerville, Request for Extension to Take Salesperson's Examination, Investigative File, I-13,168

Upon review of Mr. Baskerville's request for an extension to take and pass the salesperson's exam, Commissioner Hewes made a motion to grant him a 60-day extension. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Marcus Brown, Request for Extension to Take the Salesperson's Examination, Investigative File I-13,169

Upon review of Mr. Brown's request for an extension to take and pass the salesperson's exam, Commissioner Morris made a motion to grant him a 60-day extension. Commissioner Wright seconded the motion and Commissioner Riggins-Allen opposed the motion. The motion passed 7-1.

Stephanie Hardin, Request for Extension to Take the Post License Course and Apply for the Original Salesperson's License, Investigative File, I-13,171

Upon review of Ms. Hardin's request for an extension that would allow her to complete the post license course and submit an application for an original salesperson's license, Commissioner Hewes made a motion to grant her a 120-day extension. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

Kilsoo Park, Request for Reconsideration of License Revocation, Formal Complaint No. 3143

Upon review of Mr. Park's request for re-consideration of the Commission's ruling to revoke his license and instead offer a suspension and/or fine and require him to take additional continuing education courses, Commissioner Cawthon made a motion to deny his request. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Review and Discussion of Commission Audit Procedures for Property Management Trust Accounts

Commissioner Watts led the discussion and expressed concern that language contained in the Advisory Trust Guidelines (page A-7 in the License Law Book), specifically (1) *...at the time of a monthly account reconciliation of trust accounts* and (d) 3. *At the time of the bank or trust account reconciliation...*, may be misinterpreted and could cause conflict with language in Section 34-27-36(7)(b). He proposed that a task force be formed to review the document and possibly revise or clarify the language. Commissioners Watts, Morris, Hodges, and Buford will be members of the task force.

There being no further business, the meeting adjourned at 11:00 a.m.

Done this 14th day of August, 2009.

Lori Moneyham, Recording Secretary

Jewel Buford, Vice Chairman