

MINUTES

A meeting of the Alabama Real Estate Commission was held August 24, 2017, at the Alabama Real Estate Commission office, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Vice Chairman Steve Cawthon; Commissioners Reid Cummings, Cindy Denney, Carole Harrison, Clif Miller, Vaughn Poe, Danny Sharp and Nancy Wright; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; and Investigators David Erfman, K. C. Baldwin and Rickey Fennie. Chairman Bill Watts was absent with notice. The Hearing Officer was Jim Hampton.

Other staff members in attendance for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham; Accounting and Personnel Director Molli Jones; Education Director Ryan Adair; Licensing Administrator Anthony Griffin, Information and Technology Manager Brett Scott, Information Technology Specialist Steven Brown and Executive Assistant Barbi Lee.

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:00 a.m. and a quorum was declared.

Vice Chairman Cawthon recognized the guests who were present to observe the meeting: Emily Marsh, Advocacy and Policy Manager, Alabama Association of REALTORS®; Peggy Goins, legal assistant to hearing officer Jim Hampton; and Huntsville licensee Lynn Cawthon.

Commissioner Harrison made a motion to approve the minutes from the July 27, 2017 meeting. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Vice Chairman Cawthon told staff how much he has enjoyed working with them and appreciated their support over these past 10 years. Executive Director Patricia Anderson thanked him for his service to the Commission on behalf of the Commission staff. Vice Chairman Cawthon's term ends on September 30, 2017.

Ms. Anderson presented the July 2017 financial report. Revenues have increased slightly due to the number of new licensees. As of July 2017, over 2,800 salespersons have taken the real estate examination.

Ms. Anderson shared two letters. The first was a letter from Michael Holmes, a respondent at the July 27, 2017 meeting who requested approval to be licensed. Mr. Holmes' letter expressed his appreciation to the Commissioners for hearing his case and approving his eligibility for licensure. The second was a letter from licensee Cindy Dyer requesting that Commissioners conduct a Commission meeting in Cullman, Alabama in conjunction with the North Alabama REALTOR® Leadership Program.

Education Director Ryan Adair requested adoption of proposed amendments to rules 790-X-1-.06, 790-X-1-.15, 790-X-1-.18 and 790-X-1-.21. A public hearing on the amendments was held on July 27, 2017 and no one appeared to offer comments. There were also no written comments submitted. Commissioner Wright made a motion to approve the proposed rule amendments. Commissioner Denney seconded the motion and it passed unanimously 8-0.

Commissioner Sharp made a motion that the Commissioners conduct disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

HEARINGS

Samantha Lyons, Application for Temporary Salesperson's License, Investigative File I-15,088

Upon discussion of the evidence and testimony presented by Ms. Lyons regarding her application for a temporary salesperson's license, Commissioner Denney made a motion to deny her application. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Sara Nicole Thompson, Yellowhammer Properties and Madison Andy Hawkins, III, Formal Complaint #3429

Madison Andy Hawkins III, Inactive Associate Broker, Pell City, Alabama and former Qualifying Broker of Yellowhammer Properties, Mountain Brook, Alabama and Sara Nicole Thompson, current Qualifying Broker, Yellowhammer Properties, Mountain Brook, Alabama were charged on Count 1 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)b. 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, by having a shortage of funds in the trust account; charged on Count 2 with violating 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-.03(1) which states "the deposit and accounting for at all times of all funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama shall require that the qualifying broker be a customer of the financial institution holding all such accounts and the qualifying broker shall be one of the persons with authority to deposit and withdraw funds and to write or make checks as necessary on all such accounts"; charged on Count 3 with violating 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-.03(4) which states "...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." Madison Andy Hawkins III was charged on Count 4 with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(17) by establishing an association, by employment or otherwise, with an unlicensed person who is expected or required to act as a licensee, or aiding, abetting, or conspiring with a person to circumvent the requirements of this chapter by allowing leases to be signed by unlicensed employees.

Based on the evidence and testimony presented by Ms. Thompson and Mr. Hawkins, Commissioner Harrison made a motion to find Ms. Thompson guilty on all counts. Commissioner Poe seconded the motion and it passed unanimously 8-0. Commissioner Wright made a motion to find Mr. Hawkins guilty on all counts. Commissioner Miller seconded the motion and it passed unanimously 8-0. Commissioner Sharp made a motion to fine Ms. Thompson \$2,500 on Count 1. Commissioner Cummings seconded the motion and it passed unanimously 8-0. Commissioner Wright made a motion to fine Ms. Thompson \$2,500 on Count 2. Commissioner Harrison seconded the motion and it passed unanimously 8-0. Commissioner Cummings made a motion to fine Ms. Thompson \$2,500 on Count 3. Commissioner Wright seconded the motion and it passed unanimously 8-0. Commissioner Wright made a motion to fine Mr. Hawkins \$2,500 on Count 1. Commissioner Miller seconded the motion and it passed unanimously 8-0. Commissioner Miller made a motion to fine Mr. Hawkins \$2,500 on Count 2. Commissioner Cummings seconded the motion and it passed unanimously 8-0. Commissioner Harrison made a motion to fine Mr. Hawkins \$2,500 on Count 3. Commissioner Wright seconded the motion and it passed unanimously 8-0. Commissioner Wright made a motion to fine Mr. Hawkins \$2,500 on Count 4. Commissioner Cummings seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Patricia D. Snell AND Century 21 Patty Snell and Associates, Formal Complaint #3428

Ms. Snell requested and was granted a continuance.

Latesha Isbell, Hardship Request for 90-Day Extension to Complete Prelicense Course and Take Examination, Investigative File I-15,122

Upon discussion of the evidence and testimony presented by Ms. Isbell regarding her hardship request for a 90-day extension to complete the prelicense course and take the examination, Commissioner Poe made a motion to grant her a 120-day extension to complete the prelicense course and take the examination. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Joseph David Williams, Jr., Application for Determination of Licensing Eligibility, Investigative File I-15,108

Upon discussion of the evidence and testimony presented by Mr. Williams regarding his application for determination of licensing eligibility, Commissioner Cummings made a motion to approve his application. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Joseph Andrew Lehman, Request to be Relicensed after Revocation, Investigative File I-15,120

Upon discussion of the evidence and testimony presented by Mr. Lehman regarding his request to be relicensed after revocation, Commissioner Wright made a motion to approve his

request. Commissioner Sharp seconded the motion and it passed 5-3 with Commissioners Poe, Harrison and Denney voting against the motion.

NOT APPEARINGS

Clifford Joseph Glansen, Waiver of Hearing and Guilty Plea for Failing to Provide Mandatory RECAD Forms to Consumer, Formal Complaint #3409

Clifford Joseph Glansen, Qualifying Broker, FlatFee.com, Hollywood, Florida, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) and Section 34-27-36(a)(31) by failing to prepare, distribute to his clients, and retain copies of the Commission's mandatory RECAD forms, per Commission Rule 790-X-3-.13(1). Commissioner Cummings made a motion to find Mr. Glansen guilty and fine him \$250. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Joe D. Huddleston, Surrender of License, Investigative File I-15,063

Upon review of the affidavit of license surrender submitted by Mr. Huddleston, Commissioner Cummings made a motion to accept the surrender of his license. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Elmer W. Puckett, Hardship Request for Waiver of \$150 License Renewal Penalty Fee, Investigative File I-15,127

Upon review of the evidence presented regarding Mr. Puckett's hardship request for a waiver of the \$150 license renewal penalty fee, Commissioner Harrison made a motion to deny his request. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Dennis Norton, Request for 60-Day Extension to Transfer Licenses to New, Permanent Location Without Paying Additional Transfer Fees, Investigative File I-15,136

Upon review of the evidence presented regarding Mr. Norton's request for a 60-day extension to transfer licenses to a new, permanent location without paying additional transfer fees, Commissioner Cummings made a motion to approve his request. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Confirm October Meeting Date and Location for the Record: October 26, 2017, 9:00 a.m. in Montgomery

Commissioner Wright made a motion to confirm the October meeting date and location for October 26, 2017 at 9:00 a.m. in Montgomery. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

In response to the request from licensee Cindy Dyer that Commissioners conduct a meeting in Cullman in conjunction with the North Alabama REALTOR® Leadership Program,

Commissioner Denney made a motion that the March 22, 2018 meeting be held in Cullman. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Next Commission Meeting: September 28, 2017, 9:00 a.m. in Birmingham at the Birmingham Association of REALTORS® office.

There being no further business, the meeting adjourned at 1:30 p.m.

Done this 24th day of August, 2017.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary