

MINUTES

The Alabama Real Estate Commission met December 8, 2006, in Montgomery, Alabama, in the Commission Hearing Room at the Alabama Real Estate Commission.

Those present were Chairman Bill E. Poole; Commissioners Jewel Buford, Gordon Henderson, Bobby Hewes, Chester Mallory, Jan Morris and Dorothy Riggins; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Investigators David Erfman, Phillip Bunch, Chuck Kelly, and Auditor Anthony Brown. Hearing Officer was Tori Adams. Commissioners Roy Bragg and Sheila Hodges were absent with prior notice.

The meeting having been duly noticed in accordance with the Open Meeting Act, Chairman Poole called the meeting to order at 9:00 a.m.

Commissioner Mallory moved to approve the October 20 meeting minutes as presented. Commissioner Morris seconded the motion and it passed unanimously 7-0.

The financial statements for October were reviewed with attention given to revenues exceeding projections and expenditures below along with notice of the related fund balances.

The Executive Director's report was deferred to allow for receipt, review and discussion of the joint AAR/AREC Legislative Task Force. Commissioners Bragg, Buford, Poole and General Counsel Charles Sowell served on this Task Force. The work of the Task Force on the question of advertising as referenced in 34-27-36(a)(15) was to amend by striking the language *in letters at least as large as* and inserting *prominently*. Upon conclusion of further discussion, Commissioner Henderson moved to approve the report of the Task Force. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

In response to Commission direction, General Counsel Charles Sowell provided a draft of language that would amend license law and require reciprocal applicants to complete Alabama real estate course work and pass the Alabama portion of the exam before being eligible to receive an Alabama reciprocal license. Upon completion of discussion, Commissioner Morris moved to approve the language as amended. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Assistant Executive Director Pat Anderson shared registration information about the upcoming Salesmanship Conference in Tuscaloosa.

Executive Director Philip Lasater introduced new investigator Phil Bunch. Commissioners welcomed him and the addition to our enforcement efforts he brings.

HEARINGS

Alabama Real Estate Commission vs. Justin William Hardy, Formal Complaint No. 2983

Upon discussion of the evidence and testimony presented in the matter of Justin William Hardy, Salesperson, Building Management LLC d/b/a BMS, Birmingham, 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 34-27-031(j); Count 2: Section 34-27-36(a)(23)a. by entering a nolo contendere plea to a felony and a crime involving moral turpitude, Commissioner Buford moved to revoke the salesperson license of Mr. Hardy. Commissioner Henderson seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Pamela Martin-Lynch, Martin-Lynch Realty LLC, Formal Complaint No. 2977

Upon discussion of the evidence and testimony presented in the matter of Pamela Martin-Lynch, Broker, and Martin-Lynch Realty LLC, Auburn, 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 34-27-2(a)(5) which specifies that a real estate company such as Tiger Properties must be licensed by the Commission; Count 2: Section 34-27-36(a)(8)a. & Section 34-27-36(a)(8)b. by failing within a reasonable time to properly account for or remit money coming into their possession which belonged to others, and by commingling money belonging to other with personal funds, and by failing to deposit and account for funds belonging to others by having a shortage of such funds; Count 3: Section 34-27-36(a)(19) by failing to comply with Section 34-27-36(a)(28) and (29) by failing or refusing on demand to produce a document, book, or record in their possession concerning a real estate transaction conducted by them and by failing within a reasonable time to provide information requested by the Commission during an investigation, Commissioner Henderson moved to find Ms. Lynch and Martin-Lynch Realty LLC guilty on Count #1 and to fine them \$1000. Commissioner Riggins seconded the motion and it passed unanimously 7-0.

Commissioner Morris moved to find Ms. Lynch and Martin-Lynch Realty LLC guilty on Count #2 and to revoke their licenses and fine them \$2500. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Commissioner Morris moved to find Ms. Lynch and Martin–Lynch Realty LLC guilty on Count # 3 and to revoke their licenses and fine them \$1000. Commissioner Riggins seconded the motion and it passed unanimously 7-0.

Shanta L. Torbert, License Status, Temporary Salesperson, I-12,139

Upon discussion of Ms. Torbert’s eligibility for licensure, Commissioner Henderson moved to approve the license eligibility of Ms. Torbert. Commissioner Buford seconded the motion and it passed unanimously 6-0. Commissioner Hewes abstained.

Kelly C. Colley, Applicant for Temporary Salesperson’s License, I-12,149

Upon consideration of the testimony presented by Ms. Colley in her application for temporary salesperson’s license, Commissioner Mallory moved to approve Ms. Colley’s application. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

NOT APPEARINGS

Alabama Real Estate Commission vs. Tammy R. Smith, Formal Complaint No. 2971

Upon consideration of the evidence and testimony presented in the matter of Tammy R. Smith, Salesperson, Premier Trussville LLC, d/b/a Keller Williams Realty, Birmingham, 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 Ms. Smith guilty and to fine her \$250. Commissioner Henderson seconded the motion and it passed 6-1 with Commissioner Mallory voting no.

Alabama Real Estate Commission vs. Kistra O. Scott, Formal Complaint No. 2898

Upon consideration of the evidence and testimony presented in the matter of Kistra O. Scott, Salesperson, Mobile, 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 Henderson moved to find Ms. Scott guilty and to fine her \$250 and suspend her license until she pays the fine. Commissioner Buford seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Melissa T. Thicklin, Formal Complaint No. 2967

Upon consideration of the evidence and testimony presented in the matter of Melissa T. Thicklin, Salesperson, Exit Realty Unlimited, Montgomery, 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 Buford moved to find Ms. Thicklin guilty and to fine her \$250. Commissioner Morris seconded the motion and it passed 6-1 with Commissioner Mallory voting no.

Alabama Real Estate Commission vs. Celia D. Butler, Formal Complaint No. 2967

Upon consideration of the evidence and testimony presented in the matter of Celia D. Butler, Salesperson, Premier Realtors of Columbus LLC, Columbus, Georgia, 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 Ms. Butler guilty and to fine her \$250. Commissioner Buford seconded the motion and it passed 6-1 with Commissioner Mallory voting no.

Alabama Real Estate Commission vs. April H. Cagle, Formal Complaint No. 2972

Upon consideration of the evidence and testimony presented in the matter of April H. Cagle, Salesperson, Decatur, 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 Morris moved to find Ms. Cagle guilty and to fine her \$250. Commissioner Henderson seconded the motion and it passed 6-1 with Commissioner Mallory voting no.

Alabama Real Estate Commission vs. Jerry Cash, Formal Complaint No. 2973

Upon consideration of the evidence and testimony presented in the matter of Jerry Cash, Qualifying Broker, Homefront Realty and Auction LLC, GMAC Real Estate, Lawrenceburg, Tennessee, 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 by failing to notify the Commission within thirty (30) days of having moved his office location, Commissioner Henderson moved to find Mr. Cash guilty and to fine him \$100. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Mylinda J. Vick, Formal Complaint No. 2968

Upon consideration of the evidence and testimony presented in the matter of Mylinda J. Vick, Qualifying Broker, Cherry and Associates, LLC, Nashville, Tennessee, 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 within thirty (30) days of having changed the business address, Commissioner Buford moved to find Ms. Vick guilty and to fine her \$250. Commissioner Morris seconded the motion and it passed unanimously 7-0.

Shawn Gabriel Green, Applicant for Determination of Licensing Eligibility, I-12,133

Upon consideration of Mr. Green's eligibility for licensure, Commissioner Buford moved to approve the license eligibility of Mr. Green. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Sharon Denise Welch, Applicant for Determination of Licensing Eligibility, I-12,111

Upon consideration of Ms. Welch's eligibility for licensure, Commissioner Hewes moved to approve the license eligibility of Ms. Welch. Commissioner Henderson seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Stephen A. Mitchell, Formal Complaint No. 2976

Upon consideration of the evidence and testimony presented in the matter of Stephen A. Mitchell, Qualifying Broker, Metrowide Properties, Inc., Grayson, Georgia, 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 he failed to notify the Commission within thirty (30) days of having changed his company address, Commissioner Henderson moved to dismiss formal complaint #2976. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Proposed Clean-up Bill Drafts

Commissioner Henderson moved to approve submitting the clarifying changes to the Sunset Committee for amendment in Real Estate Commission continuing legislation in the 2007 regular session.

Alabama Real Estate Commission vs. Steven Ray Mann, Formal Complaint No. 2975

Upon consideration of the evidence and testimony presented in the matter of Steven Ray Mann, Qualifying Broker, Profile Realty, Inc., Acworth, Georgia, 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 Henderson moved to find Mr. Mann guilty and to fine him \$250. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Vickie Lugar, Request for Extension of Time for Filing Broker Application

Upon consideration of the request by Ms. Lugar for additional time for filing her broker application, Commissioner Mallory moved to approve extending the deadline for Ms. Lugar's broker application. Commissioner Henderson seconded the motion and it passed 6-0 with Commissioner Buford recusing herself.

Prospective 2007 AREC Meeting Calendar

Upon review of the 2007 meeting calendar, Commissioner Mallory moved to approve the prospective meeting dates for 2007. Commissioner Henderson seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Kent S. Levenson, Formal Complaint No. 2978

Upon consideration of the evidence and testimony presented in the matter of Kent S. Levenson, Qualifying Broker, Easlan Capital of Atlanta, Inc., Atlanta, Georgia, 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 by failing to notify the Commission within thirty (30) days of having relocated his business, Commissioner Henderson moved to find Mr. Levenson guilty and to fine him \$100. Commissioner Buford seconded the motion and it passed unanimously 7-0.

Terrence Moore, Application for a Real Estate Salesperson's Temporary License, I-12,146

Upon review of the temporary salesperson's license application of Mr. Moore, Commissioner Henderson moved to deny application for Mr. Moore. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Christine W. Weems, Formal Complaint No. 2982

Upon consideration of the evidence and testimony presented in the matter of Christine W. Weems, Temporary Salesperson, Foley, 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 Ms. Weems guilty and to fine her \$250. Commissioner Morris seconded the motion and it passed 6-1 with Commissioner Mallory voting no.

Kathleen R. Jones, Request for Extension of Deadline for Taking Salesperson's Exam

Upon consideration of the request by Ms. Jones for an extension to the deadline for taking the salesperson's exam, Commissioner Henderson moved to approve Ms. Jones hardship request for additional time by granting a 90 extension. Commissioner Morris seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Jennifer L. Brooks, Formal Complaint No. 2981

Upon consideration of the evidence and testimony presented in the matter of Jennifer L. Brooks, Salesperson, JRHBW Realty, Inc. d/b/a RealtySouth, Inverness Branch, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-35(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 Morris moved to find Ms. Brooks guilty and to fine her \$250. Commissioner Buford seconded the motion and it passed 6-1 with Commissioner Mallory voting no.

There being no further business, the Commission adjourned at 11:45 a.m.

Done this 8th day of December, 2006.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary