

MINUTES

A meeting of the Alabama Real Estate Commission was held February 17, 2022, 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 Commission Chairman Emmette Barran at 9:00 a.m.

Chairman Barran called the roll and the following Commissioners indicated their presence with a spoken "present": Vice Chairman Terri May, Commissioners Jimmie Ann Campbell, Betsy Echols, Joyce Harris, Randy McKinney, Susan Smith and Cerita Tucker Smith. A quorum was declared. The seat for the Sixth District is currently vacant.

Commission staff members in attendance or participating via VTC for all or part of the meeting were Executive Director Vaughn Poe; 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 Specialists David Bowen and Pam Oates; Education Assistant Nancy Williamson; Accounting and Personnel Director Molli Jones; Auditors Denise Blevins, Anthony Brown and Vickie Shackelford; Account Clerk Amber Green; Information Technology Director Brett Scott; Information Technology Systems Specialist Steven Brown; Programmer Analyst Senior Eric Aldridge; Licensing Director Anthony Griffin; Licensing Assistants Edward Arrington, Price Sparks and Pam Taylor; and Executive Assistant Barbi Lee. The Hearing Officer was Jim Hampton.

Members of the public also attended via video teleconference.

The oath of office was administered to new Commissioners Betsy Echols and Randy McKinney by Executive Director Vaughn Poe. Commissioner Echols represents the Third Congressional District and her term expires on September 30, 2026. Commissioner McKinney represents the First Congressional District and his term expires on September 26, 2026. Chairman Barran congratulated both Commissioners for their appointment to the Commission and stated that he looked forward to the opportunity to serve with them.

In accordance with Section 34-27-7(f) of Alabama License Law, Chairman Barran asked for a motion to elect a Commission Chairman and Vice Chairman. Commissioner Harris nominated Commissioner Emmette Barran for Chairman. Commissioner Campbell seconded the motion and it passed unanimously 8-0. Commissioner Campbell nominated Commissioner Terri May for Vice Chairman. Commissioner Smith seconded the motion and it passed unanimously 8-0.

Commissioner Smith made a motion to approve the minutes from the January 20, 2022, Commission meeting. Vice Chairman May seconded the motion and it passed 6-0. Commissioners

Echols and McKinney did not vote since their terms did not commence until February 15, 2022, the day they were confirmed by the Alabama Senate.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Poe began by asking Commissioners and attendees to observe a moment of silence and offered sincere condolences to Commissioner Tucker Smith on the loss of her mother, Willie Mae Tucker.

Director Poe introduced two new team members in the Licensing Division. Licensing Assistant Price Sparks joined the Commission from the private sector and Licensing Assistant Shy'Kierra Knight joined the Commission from the Alabama Law Enforcement Agency (ALEA).

Director Poe explained the Examiners of Public Accounts were performing the Commission's one-year sunset review for fiscal year 2021. The 2020 sunset review was presented on the House of Representatives floor during this Commission meeting by Rep. Howard Sanderford.

Director Poe presented the January 2022 financial reports and gave Commissioners an update on revenues and expenditures in the operating and recovery fund accounts. There have been no recovery fund payouts for the past 30 days. The Commission has paid \$618,001.23 to other state agencies for services for fiscal year 2021 and \$196,132.33 for fiscal year 2022.

Director Poe reported the Commission has issued 38,050 total licenses. There are 4,607 licensed companies and branches. During January there were 532 licenses issued: 205 Temporary, 278 Original Salesperson and 49 Brokers. The average rate of growth is 9.2 new license applications per day, or roughly 276 per month. There is a logical expectation of a ten percent loss in the total number of licensees during this current renewal year. Presently there are 8,762 inactive licenses.

He stated that the Accounting Division reported that 21 general audits and three assistance visits were completed in January. Information regarding the assistance visits has been sent to 627 new companies. There have been 51 requests for this service and 42 of those have been completed. He said the auditors are doing a great job in getting these companies on the right foot going forward. The assistance visits are still greatly appreciated by licensees.

The Education Division reported there are 706 total education licenses. Education staff performed eight audits during January – four instructors and four schools.

Director Poe gave an update on the Prelicense and Post License Task Force. The task force is progressing in stunning fashion. Members of the task force have successfully agreed upon an additional 30 hours of Prelicense 2 course content. The next meeting will be February 23, 2022.

He reminded everyone that the exception of allowing non-certified virtual education will expire on April 30, 2022, unless license law change is approved by the legislature or if the Commission chooses to extend the exception beyond May 1, 2022. These courses, originally approved for the classroom, must be taught in the classroom and can no longer be taught online. Only courses certified by Association of Real Estate License Law Officials (ARELLO®) may be taught virtually. Assistant Executive Director Teresa Hoffman further explained that Education Director Ryan Adair had performed research and was drafting step-by-step instructions to send to providers of non-certified virtual education to assist them with the certification process. She stated the certification process with ARELLO® takes about a week to complete, dependent on the educator's response to questions from the certifiers. The cost of a certification has decreased by half and the entire process is very doable. Chairman Barran asked how many uncertified courses this deadline would really affect. Director Adair stated the numbers were very small. There are two or three prelicense courses that are being offered virtually and ten CE instructors who are teaching virtually. However, email reminders will be sent to everyone.

Director Poe shared that Assistant Executive Director Hoffman and Accounting and Personnel Director Molli Jones hosted Coffee with the Commission on Wednesday, February 16. They discussed the assistance visits initiative and Molli received two calls requesting an assistance visit that afternoon.

Director Poe reminded Commissioners that the ARELLO® Mid-Year Meeting will be held in Savannah, Georgia on April 6-8, 2022. The registration and hotel block have been extended until March 1, 2022. Director Poe also reminded Commissioners that ARELLO® is the only professional development association for real estate regulators.

He also reminded Commissioners of the reference email sent to them concerning the Alabama Ethics Commission's required filing of the Statement of Economic Interests that is due by April 30, 2022.

Director Poe announced it was time to review and revise the five-year strategic plan. The previous plan will be sent to Commissioners.

Chairman Barran thanked Director Poe and the entire staff for their efforts for slowly and diligently working on changing the perception of the Real Estate Commission to licensees. He stated we can at times take it for granted, but that it is such a big deal that we are becoming more user-friendly and there are help sessions for new offices that are being set up.

COMMISSIONER DISCUSSION

1. Approve for Filing Proposed Rule Amendments with the Legislative Services Agency.

- a. Rule Amendment 790-X-1-.03 License Requirements. General Counsel Starla Van Steenis explained to Commissioners this rule amendment is intended to simplify the requirements and give more freedom for a licensee when dealing with his or her

personally owned property. The current rule is not supported by actual license law. This rule amendment provides two requirements for a licensee: 1. If marketing through the licensees' current brokerage, the licensee continues to be subject to all license law rules. 2. If a licensee is trying to receive compensation or commission or negotiates a non-commission transaction. This amendment clarifies the circumstances when licensees acting as a principal party to a transaction are governed by statutes and regulations applicable to licensees and supports the current law.

Upon discussion of the proposed rule amendment, Vice Chairman May made a motion to table proposed rule amendment 790-X-1-.03 until the March 24, 2022, meeting. Commissioner McKinney seconded the motion and it passed unanimously 8-0.

b. Rule Amendment 790-X-1-.11 Course Content for Continuing Education. Education Director Ryan Adair explained to Commissioners this rule amendment will require a 3-hour CE course for all associate and qualifying brokers beginning with the next license period. This course must be taken in addition to the mandatory Risk Management course. All associate and qualifying brokers must have the 3-hour Risk Management course, the 3-hour Qualifying Broker course, and 9 hours of elective CE courses to renew a license on active status in 2024. This rule amendment will be effective October 1, 2022, for the next renewal cycle in 2024. Vice Chairman May made a motion to approve proposed rule amendment 790-X-1-.11 for filing with the Legislative Services Agency. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

Commissioner Smith made a motion that Commissioners conduct disciplinary hearing disposition discussions in an open meeting. Vice Chairman May seconded the motion and it passed unanimously 8-0.

HEARINGS

Melissa Faulkner, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-318

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Faulkner's application for a real estate salesperson's temporary license, Vice Chairman May made a motion to approve her application. Commissioner McKinney seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission VS. Rebecca Lynn Foster, Formal Complaint No. 3573

Assistant General Counsel Zack Burr advised Commissioners that Ms. Foster submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Rebecca Lynn Foster, Associate Broker, Harvest, Alabama was charged with 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 presented in the matter, Commissioner Smith made a motion to accept Ms. Hardin's guilty plea and fine her \$250. Commissioner Harris seconded the motion and it passed unanimously 8-0.

Kevin Frazier, Application for Determination of Licensing Eligibility, Investigative File I-22-073

Mr. Frazier was not present for his hearing due to a work conflict. He asked for a continuance and it was granted for the March 24, 2022, meeting.

Gerald Sherman (Jerry) Hawley, Request for Hardship Home Operation, Investigative File I-22-085

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Hawley's request for hardship home operation, Commissioner Campbell made a motion to deny his request. Commissioner Harris seconded the motion and it passed unanimously 8-0.

George Neal, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-027

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Neal's application for a real estate salesperson's temporary license, Commissioner Tucker Smith made a motion to approve his application once all court fees and fines have been paid in full. Commissioner Harris seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission VS. Grayson Skylar McGuire, Formal Complaint No. 3574

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

Grayson Skylar McGuire, Inactive Salesperson, Tuscumbia, Alabama was charged with 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 presented in the matter, Commissioner Smith made a motion to accept Mr. McGuire's guilty plea and fine him \$250. Commissioner Harris seconded the motion and it passed unanimously 8-0.

Jennifer Michelle Shelton, Hardship Request to Renew Lapsed Salesperson License, Licensing File LC2022-002

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Shelton's hardship request to renew her lapsed salesperson license, Commission Vice Chairman May made a motion to approve her request once all fees have been paid and continuing education is completed. Commissioner McKinney seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission VS. Pamela Cotton Field, Formal Complaint No. 3575

Assistant General Counsel Zack Burr advised Commissioners that Ms. Field submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Pamela Cotton Field, Salesperson, Mobile, Alabama was charged with 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 presented in the matter, Commissioner Smith made a motion to accept Ms. Field's guilty plea and fine her \$250. Commissioner Harris seconded the motion and it passed unanimously 8-0.

Tyler Scofield, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-031

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Scofield's application for a real estate salesperson's temporary license, Commissioner Tucker Smith made a motion to approve his application. Vice Chairman May seconded the motion and it passed unanimously 8-0.

Ingrid Penick Bailey, Application for Determination of Licensing Eligibility, Investigative File I-22-026

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Bailey's application for determination of licensing eligibility, Commissioner Smith made a motion to approve her application. Commissioner Harris seconded the motion and it passed unanimously 8-0.

Matthew R. Farris, Request for Approval to Hold a Real Estate License after License was Previously Revoked, Investigative File I-22-0291

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Farris' request for approval to hold a real estate license after license was previously revoked, Vice Chairman May made a motion to approve his request. Commissioner Harris seconded the motion and it passed unanimously 8-0.

NOT APPEARINGS

Judy R. Wireman, Application for Rehearing or, in the Alternative, for Clarification, Investigative File 22-005

Commissioners Echols, Smith and McKinney were recused for this hearing.

Upon review and discussion of Ms. Wireman's application for rehearing or, in the alternative, for clarification, Vice Chairman May made a motion to grant her request for a rehearing. Commissioner Campbell seconded the motion and it passed 5-0.

Kayla Luker, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-050

Upon review and discussion of Ms. Luker's application for a real estate salesperson's temporary license, Vice Chairman May made a motion to approve her application. Commissioner Smith seconded the motion and it passed unanimously 8-0.

Philip King, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-060

Upon review and discussion of Mr. King's application for a real estate salesperson's temporary license, Commissioner Smith made a motion to approve his application. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

Robert (Bobby) Jackson Moss, Request to Continue Usage of Alabama Real Estate Commission Logo on Website, Investigative File I-22-070

Upon review and discussion of Mr. Moss's request to continue usage of the Alabama Real Estate Commission's logo on his website, Vice Chairman May made a motion to request Mr. Moss come in and speak to Commissioners regarding his request. Commissioner Harris seconded the motion and it passed unanimously 8-0. Commissioner Campbell asked if Mr. Moss should be required to remove the logo from his website until his appearance before the Commission. After discussion among Commissioners, General Counsel Starla Van Steenis will notify Mr. Moss that the logo needs to be removed until his hearing.

William Elston, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-086

Upon review and discussion of Mr. Elston's application for a real estate salesperson's temporary license, Commissioner Tucker Smith made a motion to approve his application. Commissioner Smith seconded the motion and it passed unanimously 8-0.

Confirm April Meeting Date and Location for the Record: April 21, 2022, 9:00 a.m. in Montgomery, Alabama.

Commissioner Smith made a motion to confirm the April meeting for April 21, 2022, at 9:00 a.m. in Montgomery, Alabama. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

Next Commission Meeting: Thursday, March 24, 2022, 9:00 a.m. in Montgomery.

There being no further business, Commissioner Smith made a motion to adjourn the meeting at 12:23 p.m. Vice Chairman May seconded the motion and it passed unanimously 8-0.

Done this 20th day of January 2022.

Emmette Barran, Chairman

Barbi Lee, Recording Secretary