

## **MINUTES**

A meeting of the Alabama Real Estate Commission was held February 22, 2024 at the office of Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order by Commission Chairman Susan T. Smith at 9:00 a.m.

Chairman Smith called the roll and the following Commissioners indicated their presence with a spoken "present": Vice Chairman Jimmie Ann Campbell, Commissioners Em Barran, Jim Dye, Betsy Echols, Terri May, Randy McKinney, and Deborah Lucas Robinson. A quorum was declared. Commissioner Cerita Tucker Smith arrived at 9:11 a.m.

Commission staff members in attendance all or part of the meeting were Executive Director Vaughn T. Poe; Assistant Executive Director Teresa Hoffman; General Counsel Starla Leverette; Assistant General Counsel Zack Burr; Assistant Attorney General Serena Cronier Grayson; Investigators K.C. Baldwin, Rickey Fennie and Marshall Simons; Auditor Denise Blevins; Legal Assistant Angie Kidd; Communications and Public Relations Manager Lori Moneyham; Education Director Ryan Adair; Education Specialist Pam Oates; Information Technology Director Eric Aldridge; Licensing Administrator Anthony Griffin; and Accounting and Personnel Director Barbi Lee. The Hearing Officer was Jim Hampton.

### **APPROVAL OF THE MINUTES**

Chairman Smith asked for a motion to approve the minutes from the January 18, 2024 Commission meeting. Commissioner Campbell made a motion to approve the minutes from the January 18 meeting. Commissioner Echols seconded the motion and it passed 8-0. Commissioner Tucker Smith was not yet present for the approval of the minutes.

### **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Poe introduced Angie Kidd, the new assistant in the Legal Division. Ms. Kidd addressed Commissioners and shared that she had more than 20 years in real estate and was a broker during most of that time. She has worked on the Professional Standards, Grievances, and Professional Development Committees. She was also certified by the National Association of REALTORS® to do mediations. She has also worked as a real estate instructor in Georgia and as a reciprocal licensee in Alabama. Her real estate licenses will remain on inactive status while she is employed with the Commission.

Director Poe provided an update on the roof for the Commission building. The insurance claim estimate is still being evaluated by the assigned state appraiser and we are awaiting a final figure for the Commission's costs for the deductible or other required repairs. The purchase of a new vehicle has been put on hold to direct finances toward the roof repairs.

Director Poe presented the January financial report and gave Commissioners an update on revenues and expenditures in the operating and recovery fund accounts. The Commission is currently

below projected expenditures and slightly above projected revenues. He reminded Commissioners that this is the second year of our previous renewal cycle. The 2024 renewals will begin in summer 2024; however, those funds are essentially in escrow for usage in FY2025 and FY2026.

The investments section of the financial report reflects positive market value changes in all three investment accounts. Director Poe reminded Commissioners that these funds were not available for day-to-day operations and authorization must be obtained prior to their use.

Thus far, the Commission has paid \$188,191 to other state agencies for services during fiscal year 2024, but several payments are still pending approval at the Comptroller's office. There have been no recovery fund payouts for the past 30 days.

Director Poe reported the Commission has issued 41,476 total licenses and there are currently 35,953 unique individuals licensed. The growth rate for January 2024 was 8.57 new license applications per day.

The Education renewal cycle ended on December 31, 2023. There were 231 licenses that lapsed: 38 prelicense instructors, 113 continuing education instructors; 26 school administrators, 24 approved schools, and 30 licensed schools. There are currently 757 total education licenses issued: 750 active and 7 inactive.

Education Director Ryan Adair addressed Commissioners regarding the inclusion of disciplinary continuing education as part of disciplinary action against licensees. He explained that distance education (DE) courses could be a viable option for disciplinary CE. DE courses meet the following: (1) the Commission uses the Association of Real Estate License Law Officials (ARELLO) certification which means that any online course approved in Alabama has already been certified by ARELLO, which reviews the design and delivery of the course. The Commission Education staff also reviews the certified courses for content. (2) ARELLO certification requires mastering of the course content and that is determined by quizzes and interactive exercises that instructors give throughout the course that students must pass to continue. (3) Distance education courses are more widely available. Mr. Adair explained that there is no significant difference in how students perform when taking distance education courses versus classroom courses. Performance mainly depends on the preference and learning style of the individual as to whether distance education or classroom courses are most effective for them.

The auditors performed 15 company audits in January and no assistance visits. Those companies that have not been audited beyond a three-year window are being contacted for auditing. As a result, Auditors are finding violations that may result in more future hearings before the Commission.

Director Poe reminded Commissioners of upcoming events. A virtual ARELLO Town Hall will be held March 5, 2024. Discussion items will include the ARELLO strategic plan and the relationship between ARELLO and the National Association of REALTORS®. The next quarterly Briefly Legal will be live on Microsoft Teams on March 7, 2024. Coffee With the Commission will resume on March 20, 2024. The ARELLO Mid-Year Meeting will be held April 16-18, 2024 in New Orleans, Louisiana. The April

25, 2024 Commission meeting will be held at the office of the Baldwin REALTORS® in Robertsedale, Alabama.

He added that the Statement of Economic Interests filing is due to the Alabama Ethics Commission on or before April 30, 2024. Accounting and Personnel Director Barbi Lee will send Commissioners a link to access the Ethics Commission site to complete the form.

Director Poe gave an update on the current legislative session. There is a property tax bill capping property taxes at 4-5%, which affects housing and licensees. The bill seeking to consolidate some boards and commissions is still active; however, the Commission is not included in that bill.

#### **HEARINGS – 9:30 a.m. Docket**

##### **Alabama Real Estate Commission VS. Mary S. Tarpley, Formal Complaint No. 3678**

Mary S. Tarpley, Salesperson, Ingram Homes LLC dba Ingram and Associates Branch, Homewood, Alabama was charged on **Count 1** with violating Code of Alabama, 1975 Section 34-27-36(a)(3) by failing to correct a structural defect that would be a significant factor to a reasonable and prudent person in making a decision to purchase or lease and charged on **Count 2** with violating Code of Alabama, 1975 Section 34-27-36(a)(4) by making false promises which were of a character likely to influence, persuade, or induce a person to enter into any contract or agreement.

Upon discussion of the evidence and testimony presented in this matter, Commissioner Barran made a motion to find Ms. Tarpley not guilty on Counts 1 and 2. Commissioner Echols seconded the motion and it passed unanimously 9-0.

##### **Alabama Real Estate Commission VS. Ward L. Bailey and Mortgage Realty Inc., Formal Complaint No. 24-96**

Commissioner Jim Dye recused himself from this hearing. He vacated the room during the hearing and did not participate in deliberations or voting in this matter.

Ward L. Bailey, Qualifying Broker, Mortgage Realty Inc., Birmingham, Alabama and Mortgage Realty Inc., Company, Birmingham, Alabama were charged on **Count 1** with violating Code of Alabama, 1975 Section 34-27-36(a)(8) by commingling funds belonging to others with the funds of the company.

Upon discussion of the evidence and testimony presented in this matter, Commissioner May made a motion to find Mr. Bailey and Mortgage Realty Inc. not guilty. Commissioner Barran seconded the motion and it passed 7-1 with Commissioner Tucker Smith voting against the motion.

##### **Lawrence Kevin Rodgers - Application for Determination of Licensing Eligibility, Investigative File 24-018**

Upon discussion of the evidence and testimony presented in this matter, Commissioner Barran made a motion to approve Mr. Rodgers' application. Commissioner Dye seconded the motion and it passed unanimously 9-0.

**Daisy LaRae Vann - Application for a Real Estate Temporary Salesperson License, Investigative File 24-010**

Upon discussion of the evidence and testimony presented in this matter, Commissioner Campbell made a motion to approve Ms. Vann's applications. Commissioner May seconded the motion and it passed 9-0.

**Alabama Real Estate Commission VS. Alison Lee Fulps and K & B Realty, Formal Complaint No. 24-16**

Alison Lee Fulps, Qualifying Broker, K & B Realty, Birmingham, Alabama and K & B Realty, Company, Birmingham, Alabama were charged on **Count 1** for violating Code of Alabama, 1975 Section 34-27-36(a)(28) by failing to produce upon demand by the Alabama Real Estate Commission documents, books, and records concerning real estate transactions conducted by them.

Upon discussion of the evidence and testimony presented in this matter, Commissioner Barran made a motion to find Ms. Fulps guilty, revoke her license, and fine her \$2,500. Commissioner May seconded the motion and it passed unanimously 9-0. Commissioner Barran made a motion to find K & B Realty guilty, revoke the company's license, and impose a fine of \$2,500. Commissioner May seconded the motion and it passed unanimously 9-0.

**Tavarus McCrary - Application for Real Estate Temporary Salesperson License, Investigative File 24-074**

Upon discussion of the evidence and testimony presented in this matter, Commissioner Dye made a motion to approve Mr. McCrary's application. Commissioner Lucas Robinson seconded the motion and it passed unanimously 9-0.

At 11:51 p.m. Hearing Officer Jim Hampton advised Chairman Smith that the first half of the 9:30 a.m. docket was concluded. At that time, Chairman Smith asked for a motion to remain in open session or go into executive session to deliberate these cases in accordance with the Alabama Open Meetings Act, Code of Alabama 36-25A-7(a)(9). Commissioner Tucker Smith made a motion that Commissioners go into executive session until 12:30 p.m. Commissioner Barran seconded the motion and it passed unanimously 9-0.

At 12:30 p.m. Commissioners returned with all Commissioners named during the initial 9:00 a.m. roll call present, including Commissioner Tucker Smith who arrived following the roll call. Chairman Smith asked for a motion to return to open session. Commissioner May made a motion to return to open session. Commissioner Barran seconded the motion and it passed unanimously 9-0.

**William Burton Youngblood - Request for Renewal of Lapsed Pre/Post Instructor License, LC2024-002**

Commissioner Lucas Robinson recused herself from this hearing. She vacated the room during the hearing and did not participate in deliberations or voting in this matter.

Upon discussion of the evidence and testimony presented in this matter, Commissioner Dye made a motion to approve Mr. Youngblood's request. Commissioner Barran seconded the motion and it passed unanimously 8-0.

**Jacob A. Melton - Application for Real Estate Salesperson Temporary License, Investigative File 24-031**

Upon discussion of the evidence and testimony presented in this matter, Commissioner Campbell made a motion to approve Mr. Melton's application. Commissioner May seconded the motion and it passed unanimously 9-0.

**Robert Ellis Steffens - Application for Real Estate Salesperson Reciprocal License, Investigative File 24-051**

General Counsel Starla Leverette advised Commissioners that this hearing will be continued at the April 25, 2024 meeting.

**Heather Renee Smalley - Application for Determination of Licensing Eligibility, Investigative File 24-045**

General Counsel Starla Leverette advised Commissioners that this hearing will be continued indefinitely.

**Robert Stephen Stewart Jr. - Applicant for Approval to Hold a Real Estate License After License was Previously Revoked, Investigative File 24-286**

Upon discussion of the evidence and testimony presented in this matter, Commissioner Echols made a motion to deny Mr. Stewart's application. Commissioner Campbell seconded the motion and it passed 7-2 with Commissioners Smith and Tucker Smith abstaining.

**Kalvin L. Harrison - Application for Determination of Licensing Eligibility, Investigative File 24-049**

Upon discussion of the evidence and testimony presented in this matter, Commissioner Lucas Robinson made a motion to approve Mr. Harrison's application. Commissioner Echols seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission VS. Leah Diane Turner, Formal Complaint No. 24-84**

Leah Diane Turner, Inactive Licensee, Haleyville, Alabama was charged on **Count 1** for violating Code of Alabama, 1975 Section 34-27-36(a)(23)a. by having entered a plea of guilty to a felony and on **Count 2** for violating Code of Alabama, 1975 Section 34-27-31(j) in that she failed to notify the Commission in writing within ten days of receiving notice that a criminal verdict had been entered against her.

Upon discussion of the evidence and testimony presented in this matter, Commissioner Dye made a motion to find Ms. Turner guilty on **Count 1**. Commissioner Barran seconded the motion and it

passed unanimously 9-0. Commissioner Barran made a motion to fine her \$500 and suspend her license until she is off probation and has paid restitution in full. Commissioner May seconded the motion and it passed unanimously 9-0.

Commissioner Campbell made a motion to find Ms. Turner guilty on **Count 2**. Commissioner May seconded the motion and it passed unanimously 9-0. Commissioner Campbell made a motion to fine her \$500. Commissioner Barran seconded the motion and it passed unanimously 9-0.

At 1:59 p.m. Hearing Officer Jim Hampton advised Chairman Smith that the second half of the 9:30 a.m. hearing docket was concluded. At that time, Chairman Smith asked for a motion to remain in open session or go into executive session to deliberate these cases in accordance with the Alabama Open Meetings Act, Code of Alabama 36-25A-7(a)(9). Commissioner Campbell made a motion that Commissioners go into executive session until 2:20 p.m. Commissioner Echols seconded the motion and it passed unanimously 9-0.

At 2:20 p.m. Commissioners returned with all Commissioners named during the initial 9:00 a.m. roll call present, including Commission Tucker Smith who arrived following the roll call. Chairman Smith asked for a motion to return to open session. Commissioner Barran made a motion to return to open session. Commissioner Campbell seconded the motion and it passed unanimously 9-0.

**Confirm April 25, 2024 Meeting Date and Location for the Record:** Thursday, April 25, 2024, 9:00 a.m. at the Baldwin REALTORS® office at 23280 Co. Rd. 65 in Robertsdale, Alabama

Commissioner Barran made a motion to confirm the April meeting for April 25, 2024 at 9:00 a.m. at the Baldwin REALTORS® office at 23280 Co. Rd. 65 in Robertsdale, Alabama. Commissioner Lucas Robinson seconded the motion and it passed unanimously 9-0.

**Next Commission Meeting:** Thursday, March 21, 2024 in Montgomery, Alabama.

There being no further business, Commissioner Lucas Robinson made a motion to adjourn the meeting at 2:40 p.m. Commissioner Dye seconded the motion and it passed unanimously 9-0.

Done this 22<sup>nd</sup> day of February 2024.

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Susan T. Smith, Chairman

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Lori Moneyham, Recording Secretary