

## **MINUTES**

A meeting of the Alabama Real Estate Commission was held January 19, 2023 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": Commissioners Jimmie Ann Campbell, Jim Dye, Betsy Echols, Joyce Harris, Randy McKinney, Susan Smith and Cerita Tucker Smith. Vice Chairman Terri May was absent with notice. A quorum was declared.

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 Leverette; Assistant General Counsel Zack Burr; Investigators David Erfman, K. C. Baldwin, Rickey Fennie and Marshall Simons; Auditors Vickie Shackelford, Denise Blevins and Anthony Brown; Communications and Public Relations Director Vernita Oliver-Lane; Communications and Public Relations Specialist Senior Lori Moneyham; State Professional Trainee Jess Sparks; Communications and Public Relations Intern Taylar Hooks; Education Director Ryan Adair; Education Specialists Brittni Anderson, Julie Norris and Pam Oates; Education Assistant Nancy Williamson; Staff Accountant Hattie Thomas; Information Technology Director Brett Scott; Information Technology Systems Specialist Steven Brown; Licensing Director Anthony Griffin; Licensing Assistants Shy'kierra Knight and Pam Taylor; and Executive Assistant Barbi Lee. The Hearing Officer was Jim Hampton.

Members of the public also attended via video teleconference.

Chairman Barran asked for a motion to approve the minutes from the November 17, 2022 Commission meeting. Commissioner Tucker Smith made a motion to approve the minutes from the November 17, 2022 meeting. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

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

Director Poe welcomed everyone and introduced Dr. Brittni Jones Anderson. Dr. Anderson joined the Education staff on January 3, 2023 as an Education Specialist. She stated it was a pleasure to be with the Commission and that she looked forward to learning real estate and being an auditor and trainer in the Education Division.

Director Poe presented the November and December 2022 financial reports and gave Commissioners an update on revenues and expenditures in the operating and recovery fund accounts. There was a reinvestment into the Commission's reserves from the prior fiscal year.

Revenues and expenditures are on track as projected for the current year with planned expenditures to include a new roof and one replacement fleet vehicle. There have been no recovery fund payouts for the past 60 days. The Commission has paid \$192,940.36 to other state agencies for services during fiscal year 2023. The final total paid to other state agencies for fiscal year 2022 was \$650,205.80.

Director Poe reported the Commission has issued 41,580 total licenses. There are 4,331 licensed companies and branches. During November and December there were 966 licenses issued: 341 Temporary, 511 Original Salesperson; and 114 Broker. The average rate of growth for November and December was 7.59 new license applications per day, or roughly 228 per month. Presently there are 12,226 inactive licenses. Currently, there are 36,029 unique individuals licensed.

The Accounting Division reported that 41 desk audits and two real estate company assistance visits were completed since the November 2022 Commission meeting. These assistance visits are still greatly appreciated by licensees.

The Education Division reported there are 823 total education licensees. There were five education audits (four courses and one school) during November and December.

Director Poe provided an update from the Real Estate Brokers Licensure Restructure Task Force. Proposed new requirements include an increase to the number of hours in the broker course; a checklist that was adopted from another jurisdiction that addresses performance by sector - residential, commercial and property management - and will include land sales. A one-day qualifying broker orientation at the end of the program will be mandatory. The term "associate broker" in license law was also addressed and will have an additional education element.

Education Director Ryan Adair discussed the new exam provider, Pearson Vue, that began on January 3, 2023 and the expected changes that have occurred. There has been an increase in the overall pass rates for the salesperson exams. He explained that the exam is not easier, but that there are 20 fewer items in the national portion on the new salesperson exam. The pass rates for brokers have plummeted, also as expected. The broker exam has changed from simulation items to full multiple choice and these questions are written at a higher level for the broker license.

Chairman Barran stated it would take at least a year to obtain enough data to determine the results of changing the exam provider. Mr. Adair advised Commissioners the Education Division would delay their original plan to notify schools and instructors in six months regarding pass rates because of the exam provider transition.

Director Poe discussed Coffee with the Commission that was held on January 18 with Director Poe and Assistance Executive Director Teresa Hoffman cohosting. The event was well

attended and had great questions from licensees. Of interest was two reciprocal brokers from Florida and Texas who participated and asked questions.

Director Poe reminded Commissioners that the Association of Real Estate License Law Officials (ARELLO®) Mid-year Conference is April 26-28, 2023.

Chairman Barran recognized and welcomed students in attendance from Commissioner Smith's broker class.

## **COMMISSIONER DISCUSSION**

### 1. Adopt Proposed Rule Amendments for Certification to Legislative Services Agency.

A. Rule Amendment 790-X-1-.06 Prelicense and Post License School Approval and Requirements.

B. Rule Amendment 790-X-1-.12 Continuing Education Course Approval and Requirements.

Education Director Ryan Adair reviewed and discussed the amendments with Commissioners. Upon discussion, Commissioner Smith made a motion to certify Rule Amendment 790-X-1-.06 Prelicense and Post License School Approval and Requirements and Rule Amendment 790-X-1-.12 Continuing Education Course Approval and Requirements to the Legislative Services Agency. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

These rules will be effective April 14, 2023.

### 2. Approve Commission Meeting Date Change October 19, 2023 to October 26, 2023 in Tuscaloosa, Alabama

Director Poe explained there was a conflict with the October meeting date of October 19, 2023 and asked that the date be changed to October 26, 2023. Upon discussion, the October 2023 meeting date from October 19, 2023 to October 26, 2023, Commissioner Tucker Smith made a motion to approve the date change as presented. Commissioner Echols seconded the motion, and it passed unanimously 8-0.

## **HEARINGS – 9:30 Docket**

General Counsel Starla Leverette discussed with Commissioners that changes have been made to the receipt provided by Alabama Interactive to anyone who pays a fee through the Commission's online services. The new verbiage states, "This receipt serves as proof that you conducted a transaction with Alabama Interactive on behalf of the Alabama Real Estate Commission. This receipt does not verify nor guarantee the funds were successfully received by

the Alabama Real Estate Commission. Without funds, your transaction will fail. To verify successful tracks that transaction, please review your financial records for proof of payment.”

**Alabama Real Estate Commission VS. Elizabeth Jean (Liz) Day, Formal Complaint No. 3632**

General Counsel Starla Leverette advised Commissioners that Elizabeth Jean (Liz) Day submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Elizabeth Jean (Liz) Day, Salesperson, Opelika, Alabama was charged with violating *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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Smith made a motion to accept Ms. Day’s guilty plea. Commissioner Dye seconded the motion and it passed unanimously 8-0. Commissioner Tucker Smith made a motion to fine her \$100. Commissioner Dye seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission VS. Brianna D. Armstrong, Formal Complaint No. 3639**

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

Brianna D. Armstrong, Salesperson, Tuscaloosa, Alabama was charged with violating *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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Tucker Smith made a motion to accept Ms. Armstrong’s guilty plea. Commissioner Harris seconded the motion and it passed unanimously 8-0. Commissioner Tucker Smith made a motion to fine her \$100. Commissioner Dye seconded the motion and it passed unanimously 8-0.

**La Triceya Octayvia Knight, Application for Real Estate Salesperson Temporary License, Investigative File I-23-024**

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Knight’s application for a real estate salesperson temporary license, Commissioner Smith made a motion to approve her application. Commissioner Harris seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission VS. Tonya White Wheat, Formal Complaint No. 3640**

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

Tonya White Wheat, Salesperson, Saraland, Alabama was charged with violating 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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Smith made a motion to accept Ms. Wheat's guilty plea. Commissioner Harris seconded the motion and it passed unanimously 8-0. Commissioner Tucker Smith made a motion to fine her \$100. Commissioner Echols seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission VS. Valma J. Lindsay, Formal Complaint No. 3636**

Valma J. Lindsay, Salesperson, Huntsville, Alabama was charged with violating 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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Harris made a motion to find Ms. Lindsay guilty with no fine assessed. Commissioner Dye seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission VS. Megan Leigh Wible, Formal Complaint No. 3637**

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

Megan Leigh Wible, Salesperson, McCalla, Alabama was charged with violating *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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Smith made a motion to accept Ms. Wible's guilty plea. Commissioner Harris seconded the motion and it passed unanimously 8-0. Commissioner Dye made a motion to assess no fine. Commissioner Echols seconded the motion and it passed 7-1 with Commissioner McKinney voting against the motion.

**Alabama Real Estate Commission VS. Ronketi Gosberry, Formal Complaint No. 3642**

General Counsel Starla Leverette advised Commissioners that Ms. Gosberry submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Ronketi Gosberry, Salesperson, Harvest, Alabama was charged with violating *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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Harris made a motion to accept Ms. Gosberry's guilty plea. Commissioner Smith seconded the motion and it passed unanimously 8-0. Commissioner Echols made a motion to fine her \$250. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission VS. Eugenia Monique Rucker, Formal Complaint No. 3643**

General Counsel Starla Leverette advised this hearing was being continued without date.

**Alabama Real Estate Commission VS. Chance Allen Davis, Formal Complaint No. 3638**

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

Chance Allen Davis, Remlap, Alabama was charged with violating 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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Harris made a motion to accept Mr. Davis's guilty plea. Commissioner Smith seconded the motion and it passed unanimously 8-0. Commissioner Tucker Smith made a motion to fine him \$200. Commissioner Dye seconded the motion and it passed unanimously 8-0.

**Rachel McCullar Merriweather, Application for Determination of Licensing Eligibility, Investigative File I-23-022**

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

**Alabama Real Estate Commission VS. Kimberly Michelle Milazzo, Formal Complaint No. 3644**

General Counsel Starla Leverette advised Commissioners that Kimberly Michelle Milazzo submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Kimberly Michelle Milazzo, Salesperson, Birmingham, Alabama was charged with violating 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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Smith made a motion to accept Ms. Milazzo's guilty plea. Commissioner Harris seconded the motion and it passed unanimously 8-0. Commissioner Dye made a motion to fine her \$500. Commissioner Tucker Smith seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission VS. Felicia D. (Dee) Owens, Formal Complaint No. 3641**

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

Felicia D. (Dee) Owens, Salesperson, Birmingham, Alabama was charged with violating 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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Smith made a motion to accept Ms. Owens' guilty plea. Commissioner Harris seconded the motion and it passed unanimously 8-0. Commissioner Echols made a motion to fine her \$150. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

**Justin Baker, Application for Determination of Licensing Eligibility, Investigative File I-22-245**

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

**NOT APPEARINGS**

**George Arthur McEwen, Jr., Request to Waive Fine**

Upon discussion of the request to waive fine from George Arthur McEwen Jr., Commissioner Dye made a motion to deny his request. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

Chairman Barran stated the following, "Commissioners hear cases in real time with the facts presented that day. Every case has its own circumstances. Every case has different information to evaluate and fines are assessed that we, the Commission, deem accurate and appropriate that day. There is no intention to changing decisions that are made as a body that day. That is the reason why that request was denied. We think we make the right decision at the time, and we are going to stand by it."

At 10:25 a.m. Hearing Officer Jim Hampton advised Chairman Barran that the 9:30 a.m. docket and Not Appearings requests were concluded. Considering that the 9:30 a.m. docket and Not Appearings requests were complete, Chairman Barran asked for a motion to stay in open session or go into executive session for approximately 25 minutes to deliberate these cases in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9). Commissioner Echols made a motion that Commissioners go into executive session in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9) for approximately 25 minutes. Commissioner Harris seconded the motion and it passed unanimously 8-0.

At 11:02 a.m. Commissioners returned with all Commissioners named during the initial 9:00 a.m. roll call present. Chairman Barran asked for a motion to return to open session. Commissioner Tucker Smith made a motion to return to open session. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

**Confirm March 2023 Meeting Date and Location for the Record:** March 23, 2023, 9:00 a.m. in Montgomery, Alabama.

Commissioner Smith made a motion to confirm the March 2023 meeting for March 23, 2023, at 9:00 a.m. in Montgomery, Alabama. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

**Next Commission Meeting:** Thursday, February 16, 2023, 9:00 a.m. in Montgomery, Alabama.

There being no further business, Commissioner Tucker Smith made a motion to adjourn the meeting at 11:17 a.m. Commissioner McKinney seconded the motion and it passed unanimously 8-0.

Done this 19<sup>th</sup> day of January 2023.

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Emmette Barran, Chairman

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Barbi Lee, Recording Secretary