

MINUTES

A meeting of the Alabama Real Estate Commission was held January 20, 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, Joyce Harris, Susan Smith and Cerita Tucker Smith. Commissioners Reid Cummings and Carole Harrison were absent with notice. 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; Investigators K.C. Baldwin, David Erfman, Rickey Fennie and Marshall Simons; Legal Assistant Ernestine Reeves; Communications and Public Relations Director Vernita Oliver-Lane; Communications and Public Relations Specialist Senior Lori Moneyham; State Professional Trainee Jess Sparks and Communications and Public Relations Intern Taylar Hooks; Education Director Ryan Adair; Education Specialists David Bowen and Pam Oates; Accounting and Personnel Director Molli Jones; Auditors Anthony Brown and Vickie Shackleford; Account Clerk Amber Green; Information Technology Director Brett Scott; Information Technology Systems Specialist Steven Brown; 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.

Commissioner Campbell made a motion to approve the minutes from the November 18, 2021 Commission meeting. Vice Chairman May seconded the motion and it passed 6-0.

At 9:03 a.m. Chairman Barran called for the Public Hearing for Rule Amendment 790-X-3-.15 Broker Supervision. Chairman Barran called for anyone who would like to speak on the proposed new rule. There was no response from anyone in person or through VTC.

Executive Director Vaughn Poe discussed the following changes that were made to Administrative Rule 790-X-3-.15 Broker Supervision at the request of the licensing community. In Number 2 – the word "qualifying" has been added before broker; the words "brokerage firm" were deleted; the word "company" added. In Number 7 – the words "new or existing" were added before licensee; the word "or" deleted; the words "or license" added; the words "or regulations" deleted. "Number 13 Failing to provide an orientation for licensees newly affiliated with the company" was added.

COMMISSIONER DISCUSSION

1. Approve Proposed Rule Amendment and New Rule Certification to the Legislative Services Agency.

a. Rule Amendment 790-X-2-.02 Applications for Examinations and Licensure.

Commissioner Campbell made a motion to approve proposed rule amendment 790-X-2-02 for certification to the Legislative Services Agency. Commissioner Harris seconded the motion and it passed unanimously 6-0.

b. New Rule 790-X-3-.15 Broker Supervision. Commissioner Campbell made a motion to approve proposed new rule 790-X-3-.15 with changes for certification to the Legislative Services Agency. Commissioner Smith seconded the motion and it passed unanimously 6-0.

At 9:08 a.m. Chairman Barran asked for chairman's privilege. He recognized Commissioners Carole Harrison and Reid Cummings and read a resolution for each commending them for their 10 years of service to the Alabama Real Estate Commission. Commissioner Smith made a motion that the resolution honoring the distinguished service of Commissioners Carole Harrison and Reid Cummings be spread upon the minutes of the January 20, 2022 meeting. Commissioner Campbell seconded the motion and it passed unanimously 6-0.

Chairman Barran expressed his appreciation to Commissioners Harrison and Cummings for their service and expressed how they will be missed.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Vaughn Poe announced two additions to the Commission's family. Assistant General Counsel Zack Burr and his wife welcomed twins – a boy and girl - to their family January 19, 2022.

Director Poe presented the November and December 2021 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 37,727 total licenses. There are 4,571 licensed companies and branches. The current growth rate is 9.2 new license applications per day, or roughly 276 per month.

He provided a breakdown of 2021 licensing data. There were 3,004 Temporary Salesperson licenses issued. There were 3,338 Original Salesperson Licenses issued and 332 Brokers Licenses issued. There were 601 Reciprocal Salespersons Licenses issued and 304 Reciprocal Brokers Licenses issued.

Director Poe stated the Accounting Division reported that 46 general audits and eight assistance visits were completed in November and December 2021. An email blast went out on January 12, 2022 to all new companies established after June 2021 offering assistance visits. He said the assistance visits are still greatly appreciated by licensees. Established companies are also calling the Commission for assistance visits. These visits are made with zero cost to the licensees.

Director Poe explained the issue of wholesaling was being readdressed from the perspective of property ownership. There have been several conversations with other jurisdictions around the country and it appears the Alabama Code does not sufficiently define property ownership or those who are lawfully allowed to negotiate transactions involving property. There are considerations and exceptions for commercial real estate. A proposed rule amendment is being drafted to redefine or clarify property ownership for consideration and approval by the Commission.

Director Poe provided data for 2021 consumer protection. The legal division fielded 2,533 consumer complaint calls, most of which were not matters of license law. There were 92 written complaints and, of those, three resulted in formal complaints being filed. There were over 5,000 complaints made by licensees on other licensees. It should be realized that even when the Commission is not involved in a matter and cannot give legal advice, staff may refer consumers to other authorities for assistance.

Director Poe stated the Education Division reported there are 699 total education licenses. Education staff members have been very busy reviewing state-specific course content in online salesperson prelicense courses to verify that the school's curriculum is the same as current license law. To date, 11 online schools have been reviewed with six completed during November and December 2021. The director reminded everyone that effective May 1, 2022 courses originally approved for the classroom must be taught in the classroom and can no longer be taught online. Only courses certified by ARELLO® (Association of Real Estate License Law Officials) may be taught virtually.

Director Poe gave an update on the ARELLO® Leadership Symposium held in Scottsdale, Arizona January 10-12, 2022. He stated it was a good meeting and that the organization has great agenda items for this year and encouraged Commissioners to be involved. The ARELLO® Mid-Year Meeting will be held in Savannah, Georgia on April 6-8, 2022. Registration closes on February 19, 2022.

Director Poe gave an update on the Prelicense and Post License Task Force. The task force has met twice with top individuals from all over the state serving. The work being done is extremely important, but the task is huge. With the suggestion of 30 additional hours of course work, the proposed requirement would be 120 hours to obtain an Alabama real estate license. Director Poe stated Alabama is currently average among other states in the number of hours required and "we do not want to be average. We want to be above average."

Director Poe reported the Commission is now on TikTok. We want to be available to our licensees on all social media platforms they are using. He announced that the next Briefly Legal will be on Microsoft Teams and not Facebook Live.

Director Poe announced the three current Commissioner appointments by the governor are scheduled to appear before the Senate Confirmations Committee in February 2022.

NOT APPEARINGS

Ashton Black, Application for Determination of Licensing Eligibility, Investigative File I-22-008

Upon review and discussion of Ms. Black's application for determination of licensing eligibility, Vice Chairman May made a motion to approve her application. Commissioner Smith seconded the motion and it passed unanimously 6-0.

Letter to Commission Request for Rehearing – Melissa A. Faulkner

Commissioner Tucker Smith was recused for this hearing.

Upon review and discussion of Ms. Faulkner's request for a rehearing, Commissioner Smith made a motion to approve her request for a rehearing. Commissioner Campbell seconded the motion and it passed 5-0.

At 10:00 a.m. Chairman Barran called for a 10-minute break as a court reporter had not arrived to begin the hearings.

At 11:05 a.m. the Commission meeting reconvened with all previously noted Commissioners in attendance.

Commissioner Campbell made a motion that Commissioners conduct disciplinary hearing disposition discussions in an open meeting. Vice Chairman May seconded the motion and it passed unanimously 6-0.

HEARINGS

Alabama Real Estate Commission VS. Brian Douglas Senn, Formal Complaint No. 3566

Brian Douglas Senn, Salesperson, Birmingham, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-33(c)(2) thus violating Section 34-27-30 in that he procured or assisted in the procuring of prospects or properties and assisted in contracting the sale of properties while his real estate license had lapsed.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Smith made a motion to find Mr. Senn not guilty. Commissioner Campbell seconded the motion and it passed 5-1 with Commissioner Harris voting against the motion.

Alabama Real Estate Commission VS. Cynthia Cindy Lee Hardin, Formal Complaint No. 3572

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

Cynthia Cindy Lee Hardin, Salesperson, New Market, 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, Vice Chairman May made a motion to accept Ms. Hardin's guilty plea with no fine assessed. Commissioner Harris seconded the motion and it passed 5-1 with Chairman Barran voting against the motion.

Dovie Bowen, Application for Determination of Licensing Eligibility, Investigative File I-21-351

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Bowen's application for determination of licensing eligibility, Commissioner Smith made a motion to approve her application subject to full payment of restitution and the end of her probation. Commissioner Campbell seconded the motion and it passed unanimously 6-0.

Marilyn Demetris Dumpson, Application for License Instructor Approval, Investigative File I-21,167

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Dumpson's application for license instructor, Vice Chairman May made a motion to approve her application. Commissioner Smith seconded the motion and it passed unanimously 6-0.

Lorenza (Low) Finley, Request for Approval to Hold a Real Estate License after License was Previously Revoked, Investigative File I-21-229

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Finley's request for approval to hold a real estate license after his license was previously revoked, Commissioner Tucker Smith made a motion to approve his request. Commissioner Smith seconded the motion and it passed unanimously 6-0.

Mickey Owen Phillips, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-352

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Phillips' application for a real estate salesperson's temporary license, Vice Chairman May made a motion to approve his application subject to full payment of restitution. Commissioner Campbell seconded the motion and it passed unanimously 6-0.

Paula C. George, Request for Extension of Deadline to Submit Real Estate Salesperson's Temporary License Application, Licensing File LC2022-001

Upon discussion of the evidence and testimony presented in the matter regarding Ms. George's request for extension of the deadline to submit her real estate salesperson's temporary license application, Commissioner Harris made a motion to approve her request and grant a 60-day extension. Commissioner Smith seconded the motion and it passed unanimously 6-0.

Shernene Hatch, Application for Determination of Licensing Eligibility, Investigative File I-21-353

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Hatch's application for determination of licensing eligibility, Commissioner Smith made a motion to approve her application subject to full payment of restitution. Commissioner Harris seconded the motion and it passed unanimously 6-0.

Andra Berryhill, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-011

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Berryhill's application for a real estate salesperson's temporary license, Commissioner Harris made a motion to approve her application. Commissioner Smith seconded the motion and it passed unanimously 6-0.

Alexsanyna Collier, Application for Determination of Licensing Eligibility, Investigative File I-22-002

General Counsel Starla Van Steenis advised Commissioners Ms. Collier was not present and proper service could not be confirmed. She asked that this hearing be continued without date. The request was granted.

Alabama Real Estate Commission VS. Robert Stephen Stewart, Jr., Formal Complaint No. 3567

Mr. Stewart was not in attendance; however, his attorney Robert Keller was present on Mr. Stewart's behalf. The facts of the case were presented.

Robert Stephen Stewart, Jr., Inactive Salesperson, Talladega, Alabama was charged on **Count 1** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with the *Code of Alabama*, 1975, as amended, Section 34-27-31(j) by not notifying the

Commission within ten days of criminal charges being filed against him. Respondent was charged on **Count 2** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with the *Code of Alabama, 1975*, as amended, Section 34-27-31(k) by not notifying the Commission within ten days of a criminal verdict being entered against him. Respondent was charged on **Count 3** with violating the *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(23) by having entered a plea of guilty or nolo contendere or having been found guilty of or convicted of a felony or a crime of moral turpitude.

Upon discussion of the evidence and testimony presented in the matter, Vice Chairman May made a motion to find Mr. Stewart guilty on **Count 1**. Commissioner Campbell seconded the motion and it passed unanimously 6-0. Commissioner Smith made a motion to find Mr. Stewart guilty on **Count 2**. Commissioner Campbell seconded the motion and it passed unanimously 6-0. Commissioner Campbell made a motion to find Mr. Stewart guilty on **Count 3**. Vice Chairman May seconded the motion and it passed unanimously 6-0. Vice Chairman May made a motion to fine Mr. Stewart \$2,500 per count for a total of \$7,500 and revoke his license for each count. Commissioner Tucker Smith seconded the motion and it passed unanimously 6-0.

Jeffery Slick, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-321

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Slick'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 6-0.

Natasha Byrdsong, Application for Determination of Licensing Eligibility, Investigative File I-21-334

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Byrdsong's application for determination of licensing eligibility, Commissioner Campbell made a motion to approve her application subject to all restitution being paid in full. Commissioner Harris seconded the motion and it passed unanimously 6-0.

At 2:25 p.m. Chairman Barran called for a 15-minute lunch break. At 2:45 p.m. the Commission meeting reconvened with all previously noted Commissioners in attendance.

Confirm March Meeting Date and Location for the Record: March 24, 2022, 9:00 a.m. in Montgomery, Alabama.

Commissioner Smith made a motion to confirm the March meeting for March 24, 2022 at 9:00 a.m. in Montgomery, Alabama. Vice Chairman May seconded the motion and it passed unanimously 6-0.

Next Commission Meeting: Thursday, February 17, 2022, 9:00 a.m. in Montgomery.

There being no further business, Commissioner Smith made a motion to adjourn the meeting at 3:27 p.m. Vice Chairman May seconded the motion and it passed unanimously 6-0.

Done this 20th day of January 2022.

Emmette Barran, Chairman

Barbi Lee, Recording Secretary