

## MINUTES

The Alabama Real Estate Commission met July 30, 2004, at the Mobile Area Association of Realtors, Mobile, Alabama.

Those present were Chairman Bill E. Poole; Vice Chairman Gordon Henderson; Commissioners Roy Bragg, Bobby Hewes, Sheila Hodges, Lyman Lovejoy, Chester Mallory and Ruth Whitley; Executive Director Philip Lasater; Education Director Patricia Anderson; Legal Counsel Charles Sowell; Special Investigators David Erfman and Chuck Kelly; Auditor Denise Blevins and Hearing Officer Tori Adams Burk. Commissioner Hays was not present after becoming ill shortly after arriving in Mobile.

Chairman Poole called the meeting to order at 9:00 a.m.

Mr. Poole expressed appreciation to the Mobile Association of Realtors for the use of their facility. He then welcomed all present, especially AAR President Jimmy Grant, Executive Vice-President J. Danny Cooper and a host of Realtor members.

Commissioner Bragg moved to approve the minutes of the June 4<sup>th</sup> meeting as presented. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

The financial statement for May was reviewed with note made of the increase in examination numbers correlating to an increase in license issuances. No action was taken.

Commission interest being expressed to set the location of the September meeting, hearings to be scheduled were reviewed and a proposal was made to hold the September meeting in Montgomery which was then confirmed by consensus.

Upon receipt and review of correspondence from Dr. Leonard V. Zumpano, Executive Director of the Alabama Real Estate Research and Education Center, Commissioner Hodges moved to approve the Commission reimbursing the Center for copies of the Consumer Information Booklet already published and ordered by the Commission before the recently requested revision submitted by the Commission. Commissioner Bragg seconded the motion and it passed unanimously 8-0. Commissioners further expressed their appreciation to Commissioner Whitley for her editing work on the revision and to the Center for its cooperation in making the edited revisions.

Upon consideration of written and Public Hearing comments regarding proposed amendment to Rule 790-X-1.11, and following discussion, Commissioner Mallory moved to adopt the proposed amended rule with an

amendment so that three of the 15 continuing education hours will be satisfied by licensees taking Risk Management and the remaining 12 will be elective. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

Chairman Poole called for the Public Hearing on Rules 790-X-1-.06,.07,.08,.09,.10,.11,.12,.14,.16,.21 and 790-X-2-.02,.22,.23. Instructor Anne Powell was recognized and spoke confident of representing a consensus of support for the proposals. After sounding the halls, there was no one else found present that wished to address any of the proposed amendments.

## **HEARINGS**

Hearing Officer Tori Adams Burk presided.

### **Alabama Real Estate vs. Janelle Z. Angel, Angel Realty, Inc., Kenneth D. Angel, Waterfront Homes and Condos, Formal Complaint #2801**

After hearing respective responses to motions and opening statements, Mr. Oldweiler introduced information relating to a criminal investigation potentially involving Commission witnesses and Respondent's former employees. The Hearing Officer declared a recess in order to make clarifying determinations. Following, attorneys for both parties made a joint motion to continue the matter. The Hearing Officer re-set the Hearing for Mobile County on Friday September 24, 2004.

## **NOT APPEARING**

### **Alabama Real Estate Commission vs. Christina Rickey-Krawczyk, Formal Complaint #2815**

Upon discussion of the evidence and testimony presented in the matter of Christina Rickey-Krawczyk, Salesperson, Scott Real Estate Investments, Inc. d/b/a RE/MAX Realty Associates South, 4880 Valleydale Road, 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. Kranczyk guilty and to fine her \$250. Commissioner Whitley seconded the motion and it passed 7-1 with Commissioner Mallory voting no.

### **Alabama Real Estate Commission vs. Natalie Rose Austin, Formal Complaint #2818**

Upon discussion of the evidence and testimony presented in the matter of Natalie Rose Austin, Salesperson, Century 21 Professional Services, Orange Beach Branch, Orange Beach, 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 as a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Bragg moved to dismiss Formal Complaint #2818. Commissioner Mallory seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Kistra O. Scott, Formal Complaint #2817**

Upon discussion of the evidence and testimony presented in the matter of Kistra O. Scott, Salesperson, The Prudential Cooper and Co., Inc., Realtors, Cottage Hill Road, 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 Whitley moved to find Ms. Scott guilty and to fine her \$250. Commissioner Hodges seconded the motion and it passed 7-1 with Commissioner Mallory voting no.

**Denise D. Cosby, Applicant for Temporary Salesperson's License, I-11,363**

Upon discussion of Denise D. Cosby's application for temporary license, Commissioner Henderson moved to deny the license eligibility of Ms. Cosby. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

**Keller Williams Realty, Huntsville, Request for Ruling on Section 34-27-36(a)(14), Can the "Market Center Administrator" or Qualifying Broker Authorize Closing Attorney to Disburse Commissions Directly to Licensees?, I-11,383**

Commissioner Hodges moved to deny the request for ruling to waive the rule for any one other than the Qualifying Broker to disburse commission or compensation. Commissioner Whitley seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Nicholas R. Noffsinger, Formal Complaint #2819**

Upon discussion of the evidence and testimony presented in the matter of Nicholas R. Noffsinger, Temporary Salesperson, Reed Russell and Associates LLC d/b/a Century 21 Alliance Group, 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 Mr. Noffsinger guilty and to fine

him \$250. Commissioner Whitley seconded the motion and it passed 7-1 with Commissioner Mallory voting no.

**Request for Ruling, Section 34-27-34(a)(1), Dennis R. Fuller, Coastal Property Services, A-4676**

Commissioner Bragg moved to deny the request for ruling permitting broker supervision from Tallahassee, Florida in Mobile, Alabama. Commissioner Whitley seconded the motion and it passed unanimously 8-0.

**Donah Bigham, Request to Renew Lapsed Broker's License, I-11,381**

Upon discussion of Ms. Bigham's request to renew her lapsed broker license, Commissioner Bragg moved to deny the hardship waiver request of Donah Bigham. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

**Tina Burt-Edmondson, Request for Ruling on Branch Office, I-11,383**

Commissioner Hodges moved to approve the request for ruling on an adjacent building being incorporated into an office and not constituting a branch office. Commissioner Bragg seconded the motion and it passed unanimously 8-0.

**Connie L. Quesada, Applicant for Determination of Licensing Eligibility, I-11,386**

Upon discussion of Ms. Quesada's application for determination of licensing eligibility, Commissioner Hodges moved to deny the licensing eligibility of Ms. Quesada. Commissioner Bragg seconded the motion and it passed unanimously 8-0.

**Timothy Coleman Norris, Applicant for Licensure, I-11,389**

Upon discussion of Mr. Norris' application for temporary license, Commissioner Hodges moved to approve the license eligibility of Mr. Norris. Commissioner Henderson seconded the motion and it passed unanimously 8-0.

Chairman Poole called an Executive Session. Upon conclusion of the Executive Session, the Commission took the following action:

Chairman Poole called an Executive Session to review Personnel matters. Following the Executive Session, Commissioner Hodges moved to approve the recommendation of the Assistant Executive Director Search Committee and name Patricia Anderson Assistant Executive Director. Commissioner Whitley seconded the motion and it passed unanimously 8-0.

Commissioner Mallory moved to set Patricia Anderson's beginning salary as Assistant Executive Director at \$86,100. Commissioner Hodges seconded the motion and it passed unanimously 8-0.

Upon review of Executive Director, D. Philip Lasater, Commissioner Lovejoy moved to increase his salary to \$98,600. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

In consideration of General Counsel Charles Sowell's service to and tenure with the Commission, Commissioner Henderson moved to direct the Executive Director to effect a \$3600 annual increase in his salary. Commissioner Whitley seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 12:15 p.m.

Done this 30<sup>th</sup> day of July, 2004.

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Bill E. Poole, Chairman

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D. Philip Lasater, Recording Secretary