

## MINUTES

A meeting of the Alabama Real Estate Commission was held June 22, 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": Vice Chairman Terri May, Commissioners Jimmie Ann Campbell, Jim Dye, Joyce Harris, Randy McKinney and Susan Smith. Commissioner Echols was absent with notice. A quorum was declared. Commissioner Cerita Tucker Smith was late with notice.

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; Assistant Attorney General Serena Cronier; Investigators David Erfman, Rickey Fennie and Marshall Simons; Auditors Denise Blevins and Vickie Shackelford; 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 Taylor Hooks; Education Director Ryan Adair; Education Specialist Julie Norris; Education Assistant Nancy Williamson; Accounting and Personnel Director Becky Jackson; Staff Accountant Jacci Ingersoll; Account Clerk Marissa Mason; Information Technology Director Brett Scott; Programmers Eric Aldridge and Chris Prestridge; Licensing Director Anthony Griffin; Licensing Assistants Shy'kierra Knight, 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.

Chairman Barran asked for a motion to approve the minutes from the May 25, 2023 Commission meeting. Vice Chairman May made a motion to approve the minutes from the May 25, 2023 meeting. Commissioner Harris seconded the motion and it passed unanimously 7-0.

Commissioner Tucker Smith arrived for the meeting at 9:05 a.m.

### **EMPLOYEE RETIREMENT RECOGNITION – DAVID ERFMAN**

Chief Investigator David Erfman was recognized on his retirement, which was effective July 1, 2023. General Counsel Starla Leverette presented a plaque from the Legal Division recognizing his 44 years of service, loyalty, and dedication to the Commission. Mr. Erfman was also recognized by Director Poe and presented a proclamation from Gov. Kay Ivey congratulating him on his retirement after 44 years of service to the State of Alabama. Mr. Erfman received a standing ovation from everyone in attendance. He stated the Commission was like a big family

and expressed his appreciation to the Commissioners for everything they do. Chairman Barran, Commissioner Dye and Director Poe expressed their appreciation to Mr. Erfman for his years of service to the Commission.

## **EXECUTIVE DIRECTOR'S REPORT**

Director Poe expressed condolences to Commission investigator K.C. Baldwin on the loss of his father, John Baldwin Jr., who passed away unexpectedly on Father's Day.

Director Poe announced that Commissioners Joyce Harris and Cerita Tucker Smith met with licensees in Selma recently. Commissioner Tucker Smith stated it was amazing to go out and meet with licensees. They discussed the Commissioner's role at the Commission. Commissioner Harris expressed her appreciation to Commissioner Tucker Smith for being in Selma with her to meet licensees and that the licensees were very receptive to their visit and looked forward to having General Counsel Starla Leverette in their area soon.

Director Poe presented the May 2023 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 \$415,050.64 to other state agencies for services during fiscal year 2023.

Director Poe reported the Commission has issued 43,307 total licenses. There are 4,449 licensed companies and branches. During May there were 578 licenses issued: 240 Temporary, 275 Original Salesperson; and 63 Broker. The average rate of growth for May was 10.10 new license applications per day, or roughly 303 per month. Presently there are 12,553 inactive licenses. Currently, there are 37,530 unique individuals licensed.

Director Poe discussed the Ten-Year License Issuance History illustration provided to Commissioners. He stated the years captured include those during the COVID-19 pandemic and, presently, there are more licensees and licenses issued than in the Commission's 96-year history.

The Legal Division performed 16 desk audits and three real estate company assistance visits during May. The assistance visits are available at no cost to companies, typically to those that have been in business for one year or less. Director Poe stated there are still Qualifying Brokers who are not aware that this service is available despite efforts by Commission staff.

The Education Division reported there are 875 total education licensees: 850 active and 25 inactive. There were six education course audits performed during May; that included three salesperson prelicense courses and two continuing education courses. Director Poe announced that the Education and Legal team members will be meeting with representatives from Pearson VUE in the Commission's office on June 28 and 29 to review the state-specific items for all examinations.

Director Poe stated Coffee with the Commission was held June 21, 2023 with Commissioner Jimmie Ann Campbell and him co-hosting. They shared great information. An out-of-state licensee asked a question about home offices and Director Poe stated Commissioner Campbell provided an excellent response. Commissioner Campbell stated that Coffee with the Commission was very interesting, and it was good to be there with a good leader. Vice Chairman May asked if viewers were able to type in a question during the segment. Director Poe explained that the option was available, or a person could send a direct message on the Teams app, but that had not happened up to now. Director Poe announced the August Coffee with the Commission would have Education Director Ryan Adair and Commissioner Susan Smith co-hosting to discuss Education renewals.

Director Poe reminded Commissioners the 2023 Annual ARELLO® (Association of Real Estate License Law Officials) Conference will be held September 18-22, 2023. The deadline to register with ARELLO® is Wednesday, August 2 and the hotel room block cut off is Monday, August 14.

Director Poe discussed the Commission's outreach platforms: Briefly Legal, held quarterly; Coffee with the Commission, held monthly the day before the Commission meeting; and social media sites YouTube, Twitter, Instagram and Facebook. The handle for all Commission social media sites is @arecalabamagov.

#### **COMMISSIONER DISCUSSION**

None

#### **HEARINGS – 9:30 Docket**

#### **Marc Schneider, Application for Real Estate Salesperson Temporary License, Investigative File I-23-164**

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

#### **Erin Lohse, Application for Real Estate Salesperson Temporary License, Investigative File I-23-161**

Attorney Stan McDonald of Athens was present with Respondent Lohse.

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Lohse'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. Rhonda Fain Gaskins and Rentals on Lake Martin LLC, Formal Complaint No. 3691**

Rhonda Fain Gaskins, Qualifying Broker, Rentals on Lake Martin LLC, Dadeville, Alabama, and Rentals on Lake Martin LLC, Dadeville, Alabama, were charged with violating the *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(8)(a) by commingling money belonging to others with her own funds.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Tucker Smith made a motion to find Ms. Gaskins guilty. Commissioner Smith seconded the motion and it passed 7-1 with Vice Chairman May voting against the motion. Commissioner Tucker Smith made a motion to fine her \$250. Commissioner Harris seconded the motion and it passed 6-2 with Vice Chairman May and Commissioner Smith voting against the motion. Commissioner Tucker Smith made a motion to find Rentals on Lake Martin LLC guilty. Commissioner Campbell seconded the motion and it passed 7-1 with Vice Chairman May voting against the motion. Commissioner Tucker Smith made a motion to fine the company \$250. Commissioner McKinney seconded the motion and it passed 5-3 with Vice Chairman May and Commissioners Smith and Dye voting against the motion.

General Counsel Starla Leverette announced to Commissioners a change had been made to the actual receipt a licensee receives when making an online payment to the Commission. The receipt will now show the Alabama Real Estate Commission instead of State of Alabama. She explained that the decision to use that verbiage is ultimately left to a financial institution. She expressed her appreciation to IT Director Brett Scott for working with Alabama Interactive to make this change.

**Alabama Real Estate Commission VS. Sherri Ann Fauver, Formal Complaint No. 3684**

General Counsel Starla Leverette advised Commissioners that Sherri Ann Fauver submitted an executed Consent Decree after the June agenda deadline and was moved to the Consent Decree Docket.

**Tammi Hill, Application for Determination of Licensing Eligibility, Investigative File I-23-143**

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

**Alabama Real Estate Commission VS. James Ravinell Wilson II and Renting Earth Real Estate Inc., Formal Complaint No. 3692**

Assistant General Counsel Zack Burr advised Commissioners this hearing was continued until August 17, 2023.

**Alabama Real Estate Commission VS. Hannah Brooke Johnson, Formal Complaint No. 3686**

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

**Jonathan (Jon) Acklin, Application for Real Estate Salesperson Temporary License, Investigative File I-23-172**

Commissioner Dye recused himself from this hearing.

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Acklin's application for a real estate salesperson temporary license, Vice Chairman May made a motion to approve his application. Commissioner Harris seconded the motion and it passed unanimously 7-0.

**Alabama Real Estate Commission VS. Joseph A. Schneider and JAS Real Estate LLC, Formal Complaint No. 3690**

General Counsel Starla Leverette advised Commissioners this hearing was continued until August 17, 2023.

**Mary Powell, Application for Real Estate Salesperson Temporary License, Investigative File I-23-179**

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

At 11:27 a.m. Hearing Officer Jim Hampton advised Chairman Barran that the first section of the 9:30 a.m. docket was concluded. Considering that the first section of the 9:30 a.m. docket was complete, Chairman Barran asked for a motion to stay in open session or go into executive session for approximately 40 minutes to deliberate these cases in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9). Commissioner Smith 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 40 minutes. Vice Chairman May seconded the motion and it passed unanimously 8-0.

At 12:15 p.m. Commissioners returned with all Commissioners named during the initial 9:00 a.m. roll call and Commissioner Tucker Smith present. Chairman Barran asked for a motion to return to open session. Commissioner Smith made a motion to return to open session. Commissioner Harris seconded the motion and it passed unanimously 8-0.

**Kasey Miller, Application for Determination of Licensing Eligibility, Investigative File I-22-314**

Assistant General Counsel Zack Burr advised Commissioners this hearing was being continued without date.

**Alabama Real Estate Commission VS. Jason Gray, Formal Complaint No. 3665**

Attorney Al Agricola of Opelika was present with Respondent Gray.

Jason Gray, Salesperson, Birmingham, 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 *Code of Alabama, 1975*, as amended, Section 34-27-31(j) by failing to notify the commission of the institution of criminal charges against him within ten days of his arrest on December 11, 2015. Respondent Gray 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 *Code of Alabama, 1975*, as amended, Section 34-27-31(j) by failing to notify the commission of the institution of criminal charges against him within ten days of his arrest on May 7, 2021. Respondent Gray was charged on **Count 3** with violating the *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(19) by failing to comply with *Code of Alabama, 1975*, as amended, Section 34-27-31(j) by failing to notify the commission of the institution of criminal charges against him within ten days of his arrest on February 21, 2023. Respondent Gray was charged on **Count 4** with violating the *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(19) by failing to comply with *Code of Alabama, 1975*, as amended, Section 34-27-31(k) by failing to notify the commission that a criminal verdict had been entered against him on May 12, 2016. Respondent Gray was charged on **Count 5** with violating the *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(19) by failing to comply with *Code of Alabama, 1975*, as amended, Section 34-27-31(k) by failing to notify the commission that criminal verdicts had been entered against him on May 13, 2021.

Upon discussion of the evidence and testimony presented in the matter, regarding **Count 1**, Commissioner Dye made a motion to find Mr. Gray guilty. Commissioner Campbell seconded the motion and it passed unanimously 8-0. Commissioner Tucker Smith made a motion to fine him \$500. Commissioner Smith seconded the motion and it passed 5-3 with Vice Chairman May and Commissioners Harris and Dye voting against the motion.

Upon discussion of the evidence and testimony presented in the matter, regarding **Counts 2 through 5**, Commissioner McKinney made a motion to find Mr. Gray guilty on all counts. Vice Chairman May seconded the motion and it passed unanimously 8-0. Regarding **Count 2**, Commissioner Dye made a motion to fine Mr. Gray \$1,000 and revoke his license. Vice Chairman May seconded the motion and it passed unanimously 8-0. Regarding **Count 3**, Vice Chairman May made a motion to fine Mr. Gray \$1,000 and revoke his license. Commissioner Dye seconded the motion and it passed unanimously 8-0. Regarding **Count 4**, Vice Chairman May made a motion to fine Mr. Gray \$1,000 and revoke his license. Commissioner Smith seconded the motion and it passed unanimously 8-0. Regarding **Count 5**, Commissioner Campbell made a motion to fine him

\$1,000 and revoke his license. Commissioner Harris seconded the motion and it passed unanimously 8-0.

**Torrian Giles, Application for Determination of Licensing Eligibility, Investigative File I-23-110**

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

**Alabama Real Estate Commission VS. Jedidiah Michael (Jay) Harris, Formal Complaint No. 3668**

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

**NOT APPEARINGS**

None

**CONSENT DECREE SUBMISSIONS**

- 1. Alabama Real Estate Commission VS. Kevin Fehr, Formal Complaint No. 3687**
- 2. Alabama Real Estate Commission VS. Jennifer K. Batchelder, Formal Complaint No. 3685**
- 3. Alabama Real Estate Commission VS. Sandra F. Varner, Formal Complaint No. 3683**
- 4. Alabama Real Estate Commission VS. Sherri Ann Fauver, Formal Complaint No. 3684**

Chairman Barran stated the Commission accepted the above Consent Decree submissions in accordance with Commission Policy Number 2 and the agreed upon disciplinary action in each.

At 1:09 p.m. Hearing Officer Jim Hampton advised Chairman Barran that the second section of the 9:30 a.m. docket and Not Appearings were concluded. Considering that the second section of the 9:30 a.m. docket and Not Appearings were complete, Chairman Barran asked for a motion to stay in open session or go into executive session for approximately 15 minutes 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 in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9) for approximately 15 minutes. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

At 1:38 p.m. Commissioners returned with all Commissioners named during the initial 9:00 a.m. roll call and Commissioner Tucker Smith present. Chairman Barran asked for a motion to return to open session. Commissioner Smith made a motion to return to open session. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

Director Poe reminded Commissioners that any notes made during the meeting are considered legal working documents and should not be taken from the Commission Hearing Room. These documents are destroyed after each meeting.

Director Poe announced that Marshall Simons would become the Commission's Chief Investigator effective July 1, 2023. Mr. Simons expressed his appreciation for the great honor and opportunity to serve in this capacity. He discussed his prior experience with the Drug Enforcement Administration (DEA), the Federal Bureau of Investigations (FBI) and The International Criminal Police Organization (INTERPOL).

Chairman Barran reminded everyone there would not be a Commission meeting in July.

**Confirm September 2023 Meeting Date and Location for the Record:** September 14, 2023, 9:00 a.m. in Montgomery, Alabama

Commissioner Smith made a motion to confirm the September 2023 meeting for September 14, 2023, at 9:00 a.m. in Montgomery, Alabama. Commissioner Tucker Smith seconded the motion and it passed unanimously 8-0.

**Next Commission Meeting:** Thursday, August 17, 2023, 9:00 a.m. in Montgomery, Alabama. The Commission will not meet in July.

There being no further business, Commissioner McKinney made a motion to adjourn the meeting at 1:50 p.m. Vice Chairman May seconded the motion and it passed unanimously 8-0.

Done this 22<sup>nd</sup> day of June 2023.

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Emmette Barran, Chairman

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Barbi Lee, Recording Secretary