

MINUTES

A meeting of the Alabama Real Estate Commission was held June 19, 2009, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Sheila Hodges; Vice-Chair Jewel Buford; Commissioners Steve Cawthon, Bobby Hewes, Clif Miller, Jan Morris, Dorothy Riggins-Allen, and Bill Watts; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Deputy Attorney General Charles Sowell; Assistant Attorney General Chris Booth; Education Director Ryan Adair; Investigators David Erfman, Chuck Kelly, Phillip Bunch, K.C. Baldwin; and Auditor Vicky Shackelford. Hearing Officer was Tori Adams. Commissioner Nancy Wright was absent with notice.

Other staff members present were Public Information Manager Vernita Oliver-Lane, Public Information Specialist, Lori Moneyham, Senior Accountant Molli Jones, Education Specialist Julie Norris, Information Technology Manager Nancy Barfield and Assistant Information Technology Manager Brett Scott.

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

Commissioner Watts moved to approve the May 22, 2009 minutes as presented. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Executive Director Philip Lasater recognized Mr. Earl Martin, owner and instructor of Martin & Fellows Real Estate School and along with Chairman Hodges and Commissioners, expressed appreciation to Mr. Martin for making and facilitating instructor contacts to legislators assisting in the passage of HB 428 and SB 23 in the 2009 legislative session.

Mr. Martin thanked the Commission for supporting the legislation to establish real estate Instructor and School licensing with the Real Estate Commission thereby removing the requirement to comply with the Private School Act. Also, Mr. Martin applauded the enactment of legislation to require reciprocal licensee applicants to take six hours of Alabama real estate and take the License Law portion of the examination. He expressed support for the Commission and gratitude for the opportunity to serve on the Commission's Education Advisory Committee and pledges to work hard in that role.

Mr. Lasater reported that the May financials show that we have resources available to us exceeding our budget appropriation. Temporary applications are down by one third but the transfer activity exceeds projections.

Mr. Lasater reviewed the report and findings from the Examiners of Public Accounts for the compliance audit for the period October 1, 2006 – September 30, 2008. In noting the finding regarding notice of meetings as required by the Open Meetings Act, he explained the finding was because Examiners expect us to post the meetings as soon as an annual calendar is adopted. Still meetings were noticed with the Secretary of State's Office on an average of 37-42 days in advance. He further reported our practice has been amended. The finding relative to SMART was a calculation error. A travel related finding for an inadvertent reimbursement of a meal containing an alcoholic beverage charge was noted and that has been repaid. Commissioner

Watts inquired about the finding regarding the fee for lists. Mr. Lasater said he would develop a report on the history of the issue and Commission's efforts to comply with the law for future discussion. The Commission will need to respond to the finding or amend its policy to resolve the matter.

Assistant Executive Director Patricia Anderson and Education Director Ryan Adair addressed the proposed amendments to Rules 790-X-1-.06, 790-X-1-.10, 790-X-1-.11, 790-X-1-.12, 790-X-1-.15, 790-X-1-.16, 790-X-1-.17, 790-X-1-.18, 790-X-1-.21 and 790-X-2-.02 developed for implementation of Acts 09-617 and 09-0581. After review and questions by Commissioners, Commissioner Morris made a motion to move forward with the rule making process by filing these rules with Legislative Reference. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Commissioner Buford made a motion to conduct its disciplinary hearing disposition discussions in open session. The motion was seconded by Commissioner Morris and it passed unanimously 8-0.

Chairman Hodges acknowledged Jeff Samuels his attendance to observe, additionally welcomed Sherry Dinges, past Alabama Association of Realtors president, and her granddaughter Emily. Hearing Officer Tori Adams introduced Jasmine Tremble who is serving as an intern in the Attorney General's office.

HEARINGS

Alabama Real Estate Commission vs. Lisa B. Justice, Formal Complaint No. 3147

Upon discussion of the evidence and testimony presented in the matter of Lisa B. Justice, Associate Broker, Real Estate Associates, A Partnership, Clanton, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: 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; Count 2: Section 34-27-36(a)(19) and Alabama Real Estate Commission Rule 790-X-1-.17(3) as applies to instructors, Commissioner Buford made a motion to find Ms. Justice guilty on Count 1 and fine her \$250. The motion was seconded by Commissioner Morris and it passed unanimously 8-0. Commissioner Morris made a motion to find her guilty on Count 2 and fine her \$100. The motion was seconded by Commissioner Buford and it passed unanimously 8-0.

Anita Dawkins, Hardship Application for Issuance of Temporary Real Estate Salesperson's License, I-12,919

Upon discussion of Ms. Dawkins' hardship renewal request after previously being granted two deadline extensions, Commissioner Morris made a motion to deny Ms. Dawkins' request for another extension. The motion was seconded by Commissioner Cawthon and it passed 6-2 with Commissioners Miller and Riggins-Allen voting no.

Alabama Real Estate Commission vs. Kilsoo Park, Hong K. Park, and Park Real Estate, Formal Complaint No. 3143

Upon discussion of the evidence and testimony presented in the matter of Kilsoo Park, Salesperson, Hong K. Park, Qualifying Broker, and Park Real Estate, Huntsville, Alabama, and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by violating Section 34-27-35(k) in that Respondent Kilsoo Park performed acts for which an active real estate license is required with intent or expectation of receiving a commission; Count 2: Section 34-27-36(a)(19) by Park Real Estate being found in violation of Section 34-27-35(k) when Kilsoo Park performed acts for which an active real estate license is required with the intention or expectation of the company receiving a commission as compensation; Count 3: Section 34-27-35(a)(19) by failing to comply with Section 34-27-34(a)(2) in that Respondent Hong K. Park failed to see that all transactions by licensees complied with the Alabama Real Estate License Law, Commissioner Buford made a motion to find Mr. Hong K. Park guilty on Count 1 and revoke his license. The motion was seconded by Commissioner Cawthon and it passed unanimously 8-0. Commissioner Morris made a motion to find Park Real Estate guilty on Count 2 and fine the company \$500. The motion was seconded by Commissioner Cawthon and it passed unanimously 8-0. Commissioner Morris made a motion to find Kisloo Park guilty on Count 3 and reprimand him. The motion was seconded by Commissioner Hewes and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Michelle J. Humphrey and Century 21 Town-N-Country Realty, Formal Complaint No. 3144

Upon discussion of the evidence and testimony presented in the matter of Michelle J. Humphrey, Qualifying Broker, and Century 21 Town-N-Country Realty, Oneonta, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. by failing within a reasonable time, to properly account for or remit money coming into her possession which belonged to others, or commingling funds belonging to others with her own funds, and by failing to deposit and account for at all times all funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama, Commissioner Morris made a motion to find Ms. Humphrey guilty, fine her \$500, require her to take a continuing education course containing information in trust accounting within 90 days and submit to another company audit within one year. The motion was seconded by Commissioner Riggins-Allen and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR RULING

George Freeman, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3146

Upon review of the evidence and testimony presented in the matter of George Freeman, Temporary Salesperson, Keller Williams Realty Auburn Opelika, Auburn, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) 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 Buford made a motion to find Mr. Freeman guilty and fine him \$250. Commissioner Hewes seconded the motion and it passed unanimously 8-0.

Mark L. Martin, Request to Maintain Qualifying Broker Status and Obtain a Part-Time Job, I-13,096

Upon review of the request by Mr. Martin to obtain a part-time job as school bus driver while maintaining qualifying broker status, Commissioner Buford made a motion to deny the request. The motion was seconded by Commissioner Hewes and it passed 6-2 with Commissioners Miller and Morris voting no.

Linda Lifer, Request to Not Publish Revocation in Commission's Update publication, I-13,097

Upon review of Ms. Lifer's request for the Commission to not publish the revocation of her license in the *Update* newsletter, Commissioner Hewes made a motion to deny the request. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Confirm July 24, 2009 Meeting Date and Location for the Record

Commissioner Watts made a motion to confirm that next Commission meeting will be held on July 24, 2009 at 9:00 a.m. at 1201 Carmichael Way, Montgomery, Alabama. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Emil Ankermiller, Request to Surrender Real Estate Instructor and School's Approval Status in Lieu of Attending Hearing on Potential Formal Complaint and Retain Qualifying Broker's License, I-13,106

Upon review of the evidence and testimony presented in the matter of Emil Ankermiller, Owner/Instructor for Real Estate Career Institute and Qualifying Broker for Kim Horton Realty, Rainsville, Alabama, Commissioner Watts made a motion to accept the surrender of Mr. Ankermiller's instructor and school approvals. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Commissioner Morris reported on the Community Association Task Force meeting. She invited Commissioners to join the task force members for a meeting scheduled for 1:00 – 4:00 p.m. on September 10, 2009. She will ask AAR President Joe Rhodes to appoint five members from the Alabama Association of Realtors to meet jointly with the Commission task force to discuss items of mutual interest regarding community associations.

There being no further business, the Commission adjourned at 12:10 p.m.

Done this 19th day of June 2009.

Sheila Hodges, Chairman

Patricia Anderson, Recording Secretary