

## MINUTES

A meeting of the Alabama Real Estate Commission was held June 23, 2016, at the Commission offices at 1201 Carmichael Way in Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Carole Harrison; Commissioners Steve Cawthon, Cindy Denney, Clif Miller, Danny Sharp and Nancy Wright; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly and Phil Bunch; and Auditor Denise Blevins. The Hearing Officer was Jim Hampton. Commissioners Reid Cummings and Dorothy Riggins-Allen were absent with notice.

Other staff members in attendance for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham; Accounting and Personnel Director Molli Jones; Information Technology Manager Brett Scott; and Information Technology Specialist Steven Brown.

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:00 a.m. by Chairman Bill Watts and a quorum was declared.

Commissioner Cawthon made a motion to approve the minutes from the May 26, 2016 meeting. Commissioner Wright seconded the motion and it passed unanimously 7-0.

Chairman Watts introduced Emily Marsh and Jennifer Bhojwani from the Alabama Association of REALTORS® (AAR) who were present to observe the meeting. Ms. Marsh is AAR's Advocacy and Policy Manager and Ms. Bhojwani is the Director of Professional Development.

Executive Director Patricia Anderson presented the May 2016 financial report. Expenditures remain under projection. Revenue is over projection, mainly due to an increase in the number of people who are taking examinations. At this point, there have been no Recovery Fund payouts this fiscal year so the Fund has an increase of \$42,000 as of May 31 for the 2016 fiscal year.

Commission Accounting and Personnel Manager Molli Jones prepared information for Commissioners outlining guidelines for scheduling and being reimbursed for out-of-state travel. Ms. Anderson reviewed these with Commissioners and provided any necessary clarification and addressed questions.

AAR has invited Commissioners to hold a forum on September 11, 2016, during the AAR Convention that will be held September 11-13 in Huntsville, Alabama. Commissioners approved the forum and the time and details will be provided as they become available.

Ms. Anderson announced that online license renewals began on June 15, 2016, and paper renewal forms will be mailed on July 15 to those who have not renewed online by that date.

Assistant Executive Director Teresa Hoffman reported on the Commission's implementation of Act 2016-322 that requires federal criminal history checks to be done on all real estate license applicants. Ms. Hoffman has explored the use of a third-party vendor for conducting background checks. There are vendors available who already work with the Alabama Law Enforcement Agency (ALEA) and the Federal Bureau of Investigation (FBI) on the fingerprinting process. Other Alabama state agencies are using them as well. By consensus, Commissioners approved moving forward to create a vendor RFP. Ms. Hoffman will provide additional details at the July 21, 2016 Commission meeting.

Assistant General Counsel Mandy Lynn provided an update on the Randall Hilsman case and appeal. General Counsel Chris Booth provided additional information on the status of the case. Commissioners took no action on the matter.

A public hearing was held on Rules on 790-X-1-.06, 790-X-1-.07, 790-X-1-.08, 790-X-1-.10, 790-X-1-.11, 790-X-1-.12, 790-X-1-.16, 790-X-1-.17 and 790-X-1-.18. There were no questions or comments from members of the public or Commissioners regarding the proposed changes to these rules. Education Director Ryan Adair did, however, present some amendments to the proposed changes. The amendment to Rule 790-X-1-.08 will allow an instructor to have an unapproved guest speaker teach for a portion of a continuing education course or have multiple speakers teach in a single continuing education course as long as the approved instructor is present during the entire course. A proposed amendment to Rule 790-X-1-.11 will allow brokers and salespersons the option to take the *Risk Management for Brokers* course, the *Risk Management for Salespersons* course or any industry-specific risk management course, such as commercial real estate or property management, to satisfy the requirement for Level 2 Risk Management continuing education credit.

Commissioner Miller made a motion to conduct disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Wright seconded the motion and it passed unanimously 7-0.

## HEARINGS

### **Christopher A. Shearer, Request for Approval to Submit Original Salesperson Application, Investigative File I-14,799**

Upon discussion of the evidence and testimony presented by Mr. Shearer regarding his hardship request for approval to submit an original salesperson application, Commissioner Miller made a motion to grant his request. Commissioner Wright seconded the motion and it passed unanimously 7-0.

**John Calvin Davis III, Hardship Request to Renew Lapsed Salesperson License, Investigative File I-14,810**

Upon discussion of the evidence and testimony presented by Mr. Davis regarding his hardship request to renew his lapsed salesperson license, Commissioner Cawthon made a motion to grant his request. Commissioner Miller seconded the motion and it passed unanimously 7-0.

**Alison Lee Fulps, Hardship Request to Renew Lapsed Broker License, Investigative File I-14,819**

Upon discussion of the evidence and testimony presented by Ms. Fulps regarding her hardship request to renew her lapsed broker license, Commissioner Sharp made a motion to grant her request. Commissioner Wright seconded the motion and it passed unanimously 7-0.

**Alabama Real Estate Commission vs. Harry P. Johnson, Formal Complaint No. 3386**

Harry P. Johnson, Qualifying Broker, Baldwin Rental Property LLC, Daphne, Alabama was charged on Count 1 of violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to prepare and retain copies of estimated closing statements in his files, which is a violation of Commission Rule 790-X-3-.04(3) and charged on Count 2 of violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(31) and Commission Rule 790-X-3-.13 by failing to prepare and retain copies of the Real Estate Brokerage Services Disclosure (RECAD) forms in his files.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Miller made a motion to find him guilty on Count 1. Commissioner Sharp seconded the motion and it passed unanimously 7-0. Commissioner Wright made a motion to find him guilty on Count 2. Commissioner Harrison seconded the motion and it passed unanimously 7-0. Commissioner Miller made a motion to fine him \$2,000 on Count 1. Commissioner Wright seconded the motion and it passed unanimously 7-0. Commissioner Wright made a motion to fine him \$2,000 on Count 2. Commissioner Denney seconded the motion and it passed unanimously 7-0.

**Christopher Davin Gibson, Application for Determination of Licensing Eligibility, Investigative File I-14,791**

Upon discussion of the evidence and testimony presented by Mr. Gibson regarding his application for determination of licensing eligibility, Commissioner Sharp made a motion to approve his application. Commissioner Harrison seconded the motion and it passed unanimously 7-0.

**Alabama Real Estate Commission vs. Quincy Lamar Wiggins and Robert L. Brooks, Formal Complaint No. 3385**

Commissioner Miller recused himself from the hearing.

Quincy Lamar Wiggins, Salesperson, Coldwell Banker of the Valley, Huntsville, Alabama was charged on Count 1 of violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Commission Rule 790-X-3-.03(2) in that he failed to pay over to his qualifying broker all funds coming into his possession in trust for other parties immediately upon receipt of same; charged on Count 2 of violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Commission Rule 790-X-3-.04 in that he failed prepare and furnish estimated closing statements to buyers and sellers; charged on Count 3 of violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(21) by misrepresenting and failing to disclose to any lender, guaranteeing agency or any other interested party the true terms of a sale of real estate.

Robert L. Brooks, Qualifying Broker, Coldwell Banker of the Valley, Huntsville, Alabama was charged on Count 4 of violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-34(a)(2) in that he failed to see that the transaction by Quincy Lamar Wiggins, for whom he was the qualifying broker, complied with Alabama Real Estate License Law in Counts 1-3.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Wright made a motion to find Mr. Wiggins guilty on Count 1. Commissioner Denney seconded the motion and it passed unanimously 6-0. Commissioner Cawthon made a motion to find Mr. Wiggins guilty on Count 2. Commissioner Harrison seconded the motion and it passed unanimously 6-0. Commissioner Denney made a motion to find Mr. Wiggins guilty on Count 3. Commissioner Wright seconded the motion and it passed unanimously 6-0. Commissioner Wright made a motion to find Mr. Brooks guilty on Count 4. Commissioner Denney seconded the motion and it passed unanimously 6-0. Commissioner Sharp made a motion to fine Mr. Wiggins \$2,500 on Count 1. Commissioner Denney seconded the motion and it passed unanimously 6-0. Commissioner Sharp made a motion to fine Mr. Wiggins \$2,000 on Count 2. Commissioner Wright seconded the motion and it passed unanimously 6-0. Commissioner Cawthon made a motion to revoke Mr. Wiggins' license on Count 3. Commissioner Denney seconded the motion and it passed unanimously 6-0. Commissioner Harrison made a motion to fine Mr. Brooks \$2,500 on Count 4. Commissioner Wright seconded the motion and it passed unanimously 6-0.

NOT APPEARINGS

**Rafael Caballero, Request for 30-Day Extension to Have Reciprocal Salesperson License Issued, Investigative File I-14,830**

Upon review of the hardship request by Mr. Caballero to receive a 30-day extension to have his reciprocal salesperson license issued, Commissioner Wright made a motion to approve his request. Commissioner Harrison seconded the motion and it passed unanimously 7-0.

**Confirm Next Meeting Date and Location for the Record: July 21, 2016, 9:00 a.m. in Montgomery, Alabama**

Commissioner Cawthon made a motion to approve the next Commission meeting for July 21, 2016 at 9:00 a.m. in Montgomery, Alabama. Commissioner Miller seconded the motion and it passed unanimously 7-0.

There being no further business, the meeting adjourned at 12:46 p.m.

Done this 23<sup>rd</sup> day of June, 2016.

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Bill Watts, Chairman

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Lori Moneyham, Recording Secretary