

MINUTES

A meeting of the Alabama Real Estate Commission was held March 10, 2010, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

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

Other staff members present were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham; Information Technology Manager Nancy Barfield, Assistant Information Technology Manager Brett Scott and Programmer Analyst Matt Davis. Sandy Crowder from Buford Real Estate Services was also present.

The meeting having been duly noticed according to The Open Meetings Act was called to order at 9:00 a.m. by Vice Chair Jewel Buford.

Commissioner Morris moved to approve the February 10, 2010 minutes as presented. Commissioner Watts seconded the motion and it passed unanimously 8-0.

Mr. Lasater reviewed the February financial report. He called attention to the expenditures page on the continuous report which shows that revenues are down significantly over the 2009 fiscal year. Expenditures are likewise under budget as well so this compensates for the reduced revenue.

Commissioner Morris reported that the CAM (Community Association Management) Task Force is pleased that the Alabama Law Institute will take on the issues regarding community associations. Commissioner Watts further reported that the Law Institute has agreed, at the urging of several legislators and other groups, to undertake this project and address the issues surrounding management of Common Interest Developments. Their time frame to complete the project is about two years. If proposed legislation develops as a result, it will be based on comprehensive research. Commissioner Watts made a motion to dissolve the Commission's CAM task force. Commissioner Cawthon seconded the motion and it passed unanimously 8-0. Commissioner Morris expressed accolades to Mr. Booth for his liaison participation with the task force and modifications to a draft bill. She also thanked Commissioners Watts and Cawthon for their efforts on the task force.

Commissioner Morris asked about the status of the ACJIC bill. Mr. Lasater said that we have gone on record supporting it and we are not certain of the legislative strategy this session. Other licensing boards and the Department of Public Safety also support the bill.

Commissioner Morris asked where we are on planning the 2011 ARELLO District meeting. Mr. Lasater advised that it would be a good idea for the task force to meet within the next month or two to talk about where we are on the program so Commissioners can identify topics and presenters. Commissioner Morris expressed an interest in having a promotional piece ready for distribution at this year's District Conference in Iowa. Mr. Lasater assured Commissioners that will not be a problem.

Mr. Lasater reviewed pending hearings to be scheduled and proposed geographic consideration for scheduling. Commissioners stated they preferred to continue with meetings in Montgomery because it is centrally located, it is less expensive to hold them in Montgomery and to move meetings around may cause hearing delays for some licensees. Mr. Lasater called attention to hearings to be scheduled to raise awareness that upcoming meetings will likely be longer than usual over the next few months.

Mr. Lasater made Commissioners aware that he has tentatively approved Mr. Sowell and Ms. Anderson to teach License Law with Randy McKinney at AAR's Summer Splash pending their approval of the Commission's participation at the meeting scheduled for June 13-16 in Biloxi, Mississippi. Commissioner Watts made a motion to approve Commission participation in AAR's 2010 Summer Splash meeting. The motion was seconded by Commissioner Wright and passed unanimously 8-0.

Commissioners Watts and Morris both noted they will not be able to attend the Commission meeting currently scheduled for August 27, 2010.

Commissioner Cawthon said he would like to see the number of complaints and inquiries each month. He is not interested in names just categories of problems and types of complaints.

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

HEARINGS AND APPEARINGS

Alabama Real Estate Commission vs. Charles H. Eubanks, Thomas Clinton Wooley, Dianne Coleman, and Premier Realty and Management, LLC, Formal Complaint No. 3172

Upon discussion of the evidence and testimony presented in the matter of Charles H. Eubanks, Qualifying Broker; Premier Realty and Management LLC, Daphne, Alabama; Thomas Clinton Wooley, Qualifying Broker; Premier Realty and Management LLC, Mobile, Alabama and Dianne Coleman, unlicensed president of Premier Realty and Management and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing, within a reasonable time, to deposit and properly account for funds belonging to others in a separate federally insured account or accounts in a financial institution located in Alabama, and by failing to deposit and account for at all times funds coming into their possession that belong to others by having a shortage of funds in the rental account and in the security deposit account; Count 2: Section 34-27-36(a)(17) in that Respondents Eubanks and Wooley in their positions as qualifying brokers for the company and branch office established an association by employment or otherwise with Ms. Coleman, an unlicensed person, who is expected or required to act as a licensee, or they aided, abetted or conspired with Ms. Coleman to circumvent the requirement that she hold a real estate license under Chapter 27 of Title 34 Code of Alabama in order for Ms. Coleman to perform the activities alleged in this complaint; Count 3: Section 34-27-36(a)(19) in that Respondent Wooley failed to comply with Alabama Real Estate Commission Rule 790-X-3-.03(1) in that at the time of the audit and office inspection, he was not signatory on either of the trust accounts, and did not have authorization to deposit and withdraw funds or write checks on the trust accounts; Count 4: Section 34-27-30, in that Respondent Coleman performed acts for which a real estate license is required when she rented or leased the managed properties, assisted in procuring prospects for the purpose of effecting the leasing or rental of the properties, and showed properties listed for lease to prospective tenants. Respondent Coleman

further performed acts for which a real estate license is required when she agreed with property owners to offer or list or attempt to list their properties for rent by entering into property management agreements with the property owners, and when she assisted in procuring property owners as prospects for the purpose of effecting the lease or rental of their properties, the following disciplinary action was taken.

On Count 1, Commissioner Watts made a motion to find Mr. Wooley and Mr. Eubanks guilty and fine each \$1,000. The motion was seconded by Commissioner Morris and it passed unanimously 8-0. On Count 2, Commissioner Watts made a motion to find Mr. Wooley and Mr. Eubanks guilty and to fine Mr. Eubanks \$2,500 and Mr. Wooley \$1,000 and to revoke the licenses of both brokers. The motion was seconded by Commissioner Morris and passed 7-1 with Commissioner Riggins-Allen voting no. On Count 3, Commissioner Watts made a motion to find Mr. Wooley guilty and fine him \$2,500. The motion was seconded by Commissioner Cawthon and it passed 7-1 with Commissioner Riggins-Allen voting no. On Count 4, Commissioner Cawthon made a motion to fine Ms. Coleman \$15,000 plus \$2,500 for a total of \$17,500. Commissioner Morris seconded the motion and it passed 5-3 with Commissioners Riggins-Allen, Hewes and Miller voting no.

Alabama Real Estate Commission vs. Stephanie B. Williams, Wright Craft LLC d/b/a RE/MAX Partners, Formal Complaint No. 3173

The Hearing Officer granted a continuance on this matter based on Ms. Williams' attorney's oral motion on March 9, 2010.

Alabama Real Estate Commission vs. Donna R. Willis and Anchor Vacations, Inc., Formal Complaint No. 3177

Upon discussion of the evidence and testimony presented in the matter of Donna R. Willis, Qualifying Broker, and Anchor Vacations, Inc., Gulf Shores, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing, within a reasonable time, to deposit and account for funds belonging to others in a separate federally insured account or accounts located in Alabama, and by failing to properly account for at all times, all funds coming into their possession that belonged to others, Commissioner Morris made a motion to find Ms. Willis guilty, fine her \$1,000 and suspend her license for 90 days but stay the suspension pending her completion of the three hour course in Risk Management for Property Managers within the 90 day period; and further, the completion of this course will not count toward the fifteen hours necessary for license renewal. Commissioner Hewes seconded the motion and it passed unanimously.

Carmen Baker-Crutchter, Request for Hardship Renewal of Lapsed Salesperson License, Investigative File I-13,270

Ms. Baker-Crutchter was unable to attend due to car trouble and asked the Commission through our General Counsel, to take up the matter as a "not appearing" item. Hearing Officer Tori Adams ruled that the Commission could not proceed until a written request is received from Ms. Baker-Crutchter stating whether she wants a hearing at another time or have her case presented as a not appearing at another time. Therefore, the case was continued.

NOT APPEARING ITEMS FOR RULING

Joshua F. Kirk, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3041

Upon review of the evidence and testimony presented in the matter of Joshua F. Kirk, Salesperson, Oxford Realty Company, Inc., d/b/a Oxford Realty Company North Branch, Gardendale, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) in that Respondent presented 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 made a motion to find Mr. Kirk guilty and fine him \$250. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Scot Damian Escaravage, Surrender of License, I-13,299

Upon review of the affidavit of license surrender submitted by Scot Damian Escaravage, Commissioner Riggins-Allen made a motion to accept the surrender. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Rose H. Jones, Surrender of License, Formal Complaint No. 3171

Upon review of the affidavit of license surrender submitted by Ms. Jones, Commissioner Cawthon made a motion to accept the surrender. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Katshalliam E. Kimber, Request for Extension to File Application for Original Salesperson License I-13,329

Upon review of Ms. Kimber's hardship request for submitting late application for an original salesperson's license, Commissioner Morris made a motion to approve her request for an extension. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Charlotte Eldridge, Request for Extension to Complete 30 Hour Post License Course, I-13,330

Upon review of Ms. Eldridge's request for an extension to complete the 30 hour post license course and apply for the original salesperson's license, Commissioner Riggins-Allen made a motion to grant Ms. Eldridge a 30 day extension as requested. Commissioner Morris seconded the motion and it passed unanimously 8-0.

Calvin Vo, Request for Extension to Have Temporary License Issued, I-13,328

Upon review of Mr. Vo's request for a waiver of the deadline to have his temporary license issued and to allow his completion of the salesperson's prelicense course as well as completion of the 30 hour post license course to stand, Commissioner Hewes made a motion to approve Mr. Vo's request. Commissioner Riggins-Allen seconded the motion and it failed 2-6 with Commissioners Cawthon, Watts, Miller, Morris, Wright and Buford voting no. Commissioner Cawthon made a motion to deny Mr. Vo's request. Commissioner Morris seconded the motion and it passed 6-2 with Commissioners Hewes and Riggins-Allen voting no.

Carolyn Hagood, Hardship Request for Home Operation, I-13,333

Upon review of Ms. Hagood’s hardship request for home operation, Commissioner Watts made a motion to allow Ms. Hagood to operate from her home for a period of two years provided she complies with all the requirements in License Law that govern home operation. Commissioner Morris seconded the motion and it passed 7-1 with Commissioner Cawthon voting no.

Confirm April Meeting Date and Location for the Record: April 23, 2010, 9:00 a.m., Montgomery, Alabama

Commissioner Watts made a motion to confirm that the next Commission meeting will be held on April 23, 2010 at 9:00 a.m. at 1201 Carmichael Way, Montgomery, Alabama. Commissioner Morris seconded the motion and it passed unanimously 8-0.

ARELLO Mid Year Meeting – April 7-10, 2010, Colorado Springs, Colorado

Commissioner Jan Morris, Assistant Executive Director Pat Anderson, Assistant Attorney General Chris Booth and Education Director Ryan Adair will be attending the ARELLO Mid Year meeting.

There being no further business, the meeting adjourned at 11:30 a.m.

Done this 10th day of March 2010.

Jewel Buford, Vice Chairman

Patricia Anderson, Recording Secretary