

MINUTES

The Alabama Real Estate Commission met May 12, 2006, at the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Poole; Commissioners Roy Bragg, Jewel Buford, Thomas Hays, Gordon Henderson, Bobby Hewes and Chester Mallory; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Special Investigators David Erfman and Chuck Kelly. Hearing Officer was Tori Adams. Commissioners Hodges and Lovejoy were absent with prior notice.

Chairman Poole called the meeting to order at 9:00 a.m. and declared a quorum present. The meeting had been properly noticed in accordance with the Open Meetings Act and posted on the Secretary of State's website.

Commissioner Mallory moved to approve the minutes of the April 21 meeting. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

Chairman Poole recognized Executive Director Philip Lasater for the financial review and report. Pam Oates, new Education Specialist, who is concentrating on auditing classes and schools, was introduced to the Commission.

The April financial statement was reviewed noting revenues exceeding projections and expenditures under projection. There was no action taken.

Mr. Lasater distributed a written report which referenced potential action related to creating public awareness and enforcement of Act 06-601 and unlicensed real estate activity. Commissioner Henderson moved to have the Executive Director furnish the Commission with information and cost related to a statewide advertising campaign and along with the cost of promoting our General Counsel and hiring an additional Attorney I. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

The Commission reviewed its interpretation and enforcement of "fee splitting with unlicensed persons" and discussed the documents and material provided by General Counsel Charles Sowell from the Attorney General's Office. Upon consideration of whether to litigate in defense of the position the Commission has held in regard to RE/MAX and how they advertise and administer charitable contributions to the Children's Miracle Network in Alabama, Commissioner Henderson moved to instruct staff to settle with Re/Max by asking them to file the civil complaint and the Commission Counsel will enter a consent decree. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Assistant Director Pat Anderson reported that Ryan Adair would review proposed rule amendments and that the Public Hearing would be June 23rd in Gulf Shores.

Chairman Poole called an Executive Session and upon advice of legal counsel will, as provided by the new Open Meetings Act, conduct the votes on motion in the Executive Session since written orders will be issued regarding the action taken.

HEARINGS AND APPEARINGS

Terrance Deandre Caffey, Denied Applicant for Licensure, I-11,860

Upon review of Mr. Caffey's temporary salesperson's application, Commissioner Henderson moved to deny Mr. Caffey's application. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

Phillip D. Brown, Denied Application for Determination of Licensing Eligibility, I-11,800

Upon consideration of Mr. Brown's eligibility for licensure, Commissioner Bragg moved to approve the licensing eligibility for Mr. Brown. Commissioner Hays seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. ERA Jefferson Real Estate and Howard M. Jefferson, Formal Complaint No. 2915

Upon discussion of the evidence and testimony presented in the matter of Howard M. Jefferson, Qualifying Broker, ERA Jefferson Real Estate, Columbus, Georgia, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to comply with Section 34-27-32(g) in their failure to properly install a qualifying broker for the Phenix City Branch office; Count 2: Section 34-27-35(a)(1) by procuring or attempting to procure the branch office license issued by fraud, misrepresentation, or deceit, or by making a misstatement of fact in an application for a license, Commissioner Henderson moved to find Mr. Jefferson guilty on Count #1 and to fine him \$1000. Commissioner Mallory seconded the motion and it passed 6-1 with Commissioner Hays voting no.

Commissioner Buford moved to find Mr. Jefferson guilty on Count #2 and to fine him \$250. Commissioner Mallory seconded the motion and it passed 4-3 with Commissioners Bragg, Hewes, and Hays voting no.

Alabama Real Estate Commission vs. Crawford Realty of Alabama, Inc., Rhonda Duffy and Wayne Crawford, Formal Complaint No. 2922

Upon discussion of the evidence and testimony presented in the matter of Crawford Realty of Alabama, Inc. and Qualifying Broker Rhonda Duffy and Salesperson Wayne Crawford and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to comply with Section 34-27-32(g) in their failure to properly establish a branch office and install a qualifying broker; Count 2: Section 34-27-36(a)(19) in their failure to properly establish a separate office within the city limits or police jurisdiction of a municipality in accordance with Sections 34-27-2(a)(11)a. and 34-27-2(a)(11)b., Commissioner Henderson moved to find Crawford Realty of Alabama, Inc., Rhonda Duffy, and Wayne Crawford guilty on Counts 1 and 2 and to fine them \$1000. Commissioner Buford seconded the motion and it passed unanimously 7-0.

Kisha Renee Urgent, Applicant for Determination of Licensing Eligibility, I-11,895

Upon consideration of Ms. Urgent's eligibility for licensure, Commissioner Hays moved to deny the license eligibility of Ms Urgent. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Lisa W. Grow, Hardship Request for Original Salesperson Application, I-11,969

Upon consideration of Ms. Grow's hardship request for obtaining an original salespersons license, Commissioner Buford moved to approve Ms. Grow's request and that she be given an additional 90 days for application. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

NOT APPEARINGS

Alabama Real Estate Commission vs. Marie Knight, Formal Complaint No. 2923

Upon discussion of the evidence and testimony presented in the matter of Marie Knight, Temporary Salesperson, Miller-Dagley, Inc., d/b/a Coldwell Banker South Shore Realty Perdido, 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 for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Henderson moved to find Ms. Knight guilty and to fine her \$250. Commissioner Bragg seconded the motion and it passed 6-0 with Commissioner Mallory abstaining.

Kimberly Worley, Requesting Additional Time to Take Salesperson's Exam, I-11,968

Upon review of Ms. Worley's request for an extension for taking the salesperson's exam, Commissioner Henderson moved to approve an additional 90 days for Ms. Worley to take her salesperson exam. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Discussion of Proposed Rule Changes

Commissioner Hays moved to approve filing the proposed rule amendments to Legislative Reference. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Ebony Joyce McKinney, Formal Complaint No. 2924

Upon discussion of the evidence and testimony presented in the matter of Ebony Joyce McKinney, Salesperson, JRHBW Realty, Inc., d/b/a Realty-South Highway 280 South Branch, 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. McKinney guilty and to fine her \$250. Commissioner Buford seconded the motion and it passed 5-2 with Commissioners Hays and Mallory voting no.

Alabama Real Estate Commission vs. Amy Renee Givens, Formal Complaint No. 2926

Upon discussion of the evidence and testimony presented in the matter of Amy Renee Givens, Salesperson, Century 21 All Properties, Inc., Cullman, 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 Bragg moved to find Ms. Givens guilty and to fine her \$250. Commissioner Henderson seconded the motion and it passed 5-2 with Commissioners Hays and Mallory voting no.

Alabama Real Estate Commission vs. William Spells, Formal Complaint No. 2928

Upon discussion of the evidence and testimony presented in the matter of William Spells, Salesperson, Premier Trussville, LLC d/b/a Keller Williams Realty,

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. Spells guilty and to fine him \$250. Commissioner Bragg seconded the motion and it passed 5-2 with Commissioners Hays and Mallory voting no.

Michael Russell, Request for Additional Time to Have Temporary Salesperson's License Issued, I-11,974

Commissioner Henderson moved to approve an additional 90 days for Mr. Russell to have his temporary license issued. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Request for Ruling on Option for Broker Examinees to Have License Issued on October 1, 2006

Commissioner Bragg moved to permit June broker examinees the same issuance option as July, August, and September examinee applicants which is contained in the memorandum prepared for AMP to distribute to exam candidates. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

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

Done this 12th day of May, 2006.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary