

MINUTES

The Alabama Real Estate Commission met May 24, 2007 at the Alabama Real Estate Commission, Montgomery, Alabama.

Those present were Chairman Bill E. Poole; Vice Chair Sheila Hodges; Commissioners Jewel Buford, Bobby Hewes, Chester Mallory and Jan Morris; Executive Director D. Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Education Director Ryan Adair; Investigators David Erfman, Chuck Kelly and Phillip Bunch. Hearing Officer was Tori Adams. Commissioners Gordon Henderson and Dorothy Riggins were absent with prior notice.

The meeting having been duly noticed in accordance with the Open Meetings Act was called to order by Chairman Poole at 9:00 AM wherein a quorum was declared present for the conduct of business.

Chairman Poole acknowledged and welcomed former Commissioner and Birmingham broker Anthony Barnes and Kim Ray, new sales associate with Commissioner Chester Mallory.

Chairman Poole called for a moment of silent prayer in memory of Commissioner Roy Bragg and Thomas Peak, Commissioner Buford's brother. He then recognized Vice Chair Sheila Hodges to present a resolution for adoption. Upon the resolution having been read, Commissioner Morris moved its adoption and Commissioner Hewes seconded the motion and it passed unanimously 6-0.

Commissioner Hodges moved to approve the April meeting minutes as presented. Commissioner Morris seconded the motion and it passed unanimously 6-0.

The April financial statements were reviewed with fund balances and investment balances noted. There was no action taken.

In the Executive Director's report, Philip Lasater called attention to the Time-Share Report included with the copy of the Act, highlighted the deadline article in the *Educator* publication, and reviewed out-of-state travel planning for the upcoming district and annual conferences of ARELLO.

Commissioner Hodges reported on the organizational and beginning work of the Homeowners/Community Association Task Force. The work and further report of the group will be ongoing with current projection for a definitive report by calendar year end.

Commissioner Morris reported on the ARELLO mid-year meeting as a first time attendee as well as the ARELLO connection during the NAR Washington mid-year meetings. Chairman Poole reported on the ongoing monitoring of the ARELLO TIC Task Force.

Chairman Poole called for the public hearing on proposed amendments to Rules 790-X-1-.10 and 790-X-1-.17. The halls were sounded and no one was found to be present to speak to the proposed amendments.

Upon consideration of Commissioner Morris' interest and concern regarding the process by which license background checks are conducted and Commissioner Mallory's interest and concern in exploring the staff facilitation of stipulated decisions with respondents in certain areas of violation and compliance, Chairman Poole appointed Commissioners Mallory, Morris and Buford to serve as a Task Force studying and reviewing bringing any findings and recommendations to the full Commission for further consideration.

HEARINGS

Yakinea Marie Duff, Applicant for Salesperson's Temporary License, I-12,339

Upon review of the application for temporary salesperson's license submitted by Ms. Duff, Commissioner Hodges moved to approve the temporary sales license application of Ms. Duff. Commissioner Hewes seconded the motion and it passed unanimously 6-0.

Rosalyn W. Smith and R.W. Smith and Associates, Formal Complaint No. 3004

Upon discussion of the evidence and testimony presented in the matter of Rosalyn W. Smith, Qualifying Broker, and R.W. Smith and Associates, Inc., d/b/a Smith and Associates, Montgomery, 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(8)b. by failing within a reasonable time to properly account for money coming into their possession that belonged to others and failing to deposit and account for at all times funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama, Commissioner Hodges moved to find Ms. Smith guilty. Commissioner Morris seconded the motion and it passed unanimously 5-0 with Commissioner Mallory abstaining. Commissioner Hodges moved to suspend the license of Ms. Smith for one year. Commissioner Morris seconded the motion and it passed 4-1 with Commissioner Morris voting no and Commissioner Mallory abstaining.

Damon Shelton Napier, Application for Determination of Licensing Eligibility, I-12,143

Upon review and discussion of the application for determination of licensing eligibility submitted by Mr. Napier, Commissioner Hodges moved to deny the license eligibility of Mr. Napier. Commissioner Morris seconded the motion and it passed unanimously 6-0.

Deborah T. Hearn and Lyon Properties, Inc., Formal Complaint No. 3007

To be re-scheduled

Corwin D. Sledge, Applicant for Salesperson's Temporary License, I-12,280

Upon review of the salesperson's temporary license application of Mr. Sledge, Commissioner Hodges moved to deny his application. Commissioner Morris seconded the motion and it passed unanimously 6-0.

Karen L. Kennessey, Applicant to Accept Broker's Examination Without Commission Approved 60 Hour Course, I-12,306

Commissioner Hodges moved to approve the request from Ms. Kennessey that having since completed the required broker pre-license course work that her exam score stand without being required to retake it. Commissioner Morris seconded the motion and it passed unanimously 6-0.

Gale R. Patterson, Application for Determination of Licensing Eligibility, I-12,288

Upon review and discussion of the application for determination of licensing eligibility submitted by Mr. Patterson, Commissioner Hodges moved to approve the license eligibility of Mr. Patterson. Commissioner Mallory seconded the motion and it passed unanimously 6-0.

James L. Garner, Denied Applicant for Temporary Salesperson's License, I-12,307

Upon discussion of the circumstances surrounding Mr. Garner's failure to apply for a temporary license within the required twelve months from completion of the 60 hour pre-license course, Commissioner Mallory moved to approve the temporary sales license of Mr. Garner. Commissioner Hodges seconded the motion and it passed unanimously 6-0.

Escapes, Request for Declaratory Ruling, I-12,309

Commissioner Hodges moved to approve the request of Escapes to use unlicensed individuals for limited promotional activity by soliciting interested individuals to avail themselves to a detailed presentation about time share interests, provided the individuals representing Escapes are identified by a company name badge. Commissioner Mallory seconded the motion and it passed unanimously 6-0.

NOT APPEARINGS

Alabama Real Estate Commission vs. Robert T. Ashurst IV, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3008

Upon discussion of the evidence and testimony presented in the matter of Robert T. Ashurst IV, Temporary Salesperson, Brewer Real Estate Company, 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 Hodges moved to find Mr. Ashurst guilty and to fine him \$250. Commissioner Hewes seconded the motion and it passed unanimously 5-0 with Commissioner Mallory abstaining.

Appeals Report Update

Report received with no action taken

Request for Ruling, Bon Secure Village, Time Share Project, I-12,316

Commissioner Mallory moved to approve and affirm General Counsels ruling that real estate licensees may receive referral fees for time share referrals without having a time-share license. Commissioner Morris seconded the motion and it passed unanimously 5-0 with Commissioner Hodges abstaining.

60 Hour Broker Prelicense Course Outline Adoption

Commissioner Mallory moved to approve adoption of the proposed and revised broker pre-license course developed by the Commissions Task Force. Commissioner Morris seconded the motion and it passed unanimously 6-0

Louise R. Friedrich, Request for 30 Day Extension to Complete Post License Course and Have Original License Issued, I-12,322

Upon discussion of Ms. Friedrich's request for a 30 day extension for completing the post license course for obtaining an original salesperson's license, Commissioner Hodges moved to extend the time period for submission of Ms. Friedrich's application until June 30. Commissioner Hewes seconded the motion and it passed unanimously 6-0.

SUPPLEMENTAL

Rodney Fisher, Applicant for Temporary License, I-12,295

Upon discussion of Mr. Fisher's temporary salesperson's application, Commissioner Hodges moved to approve the temporary sales license of Mr. Fisher. Commissioner Mallory seconded the motion and it passed unanimously 6-0.

Monique R. Buxton, Requesting Acceptance of Passing Score After Deadline for Issuance of Temporary License I-12,321

Commissioner Hodges moved to approve Ms. Buxton's request for an extension for submitting the temporary sales license application. Commissioner Buford seconded the motion and it passed unanimously 6-0.

There being no further business, the meeting adjourned at 1:06 p.m.

Done this 24th day of May, 2007.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary